

**MINUTES
CITY OF NORTH LAS VEGAS
PLANNING COMMISSION**

January 27, 2010

BRIEFING: 5:30 P.M., Conference Room, North Las Vegas City Hall, 2200 Civic Center Drive

CALL TO ORDER: 6:05 P.M., Council Chambers, North Las Vegas City Hall, 2200 Civic Center Drive

WELCOME: Chairman Dean Leavitt

ROLL CALL: Chairman Dean Leavitt - Present
Vice-Chairman Steve Brown - Present
Commissioner Jay Aston - Absent
Commissioner Jo Cato - Present
Commissioner Dilip Trivedi - Present
Commissioner Laura Perkins - Absent
Commissioner Joseph DePhillips - Present

STAFF PRESENT: Frank Fiori, P & Z Director
Marc Jordan, Planning Manager
Robert Eastman, Principal Planner
Bethany Sanchez, Deputy City Attorney II
Lorena Candelario, PW Real Property Mgmt.
Clete Kus, PW, Transportation Planner
Eric Hawkins, Public Works
Mike Steele, Fire Department
Jose Rodriguez, Police Department

Ernie Buo, Utilities

Jo Ann Lawrence, Recording Secretary

VERIFICATION: Jo Ann Lawrence, Recording Secretary

PLEDGE OF ALLEGIANCE: Commissioner Joseph DePhillips

PUBLIC FORUM:

There was no public participation.

NEW BUSINESS

1. **UN-08-10 (40323) FOSTER HOME (PUBLIC HEARING). AN APPLICATION SUBMITTED BY CURTIS STUCKEY ON BEHALF OF MOSHOSHAUMO LLC, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A PUD, PLANNED UNIT DEVELOPMENT DISTRICT TO ALLOW A GROUP CARE FACILITY ON A 4,613 SQUARE FOOT LOT WHERE A 6,500 SQUARE FOOT LOT IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 4040 CAROL BAILEY AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 123-30-710-024.**

The application was presented by Marc Jordan, Planning Manager who explained group care facilities were normally a conditional use permit in Title 17, which meant as long as the applicant could demonstrate they complied with the criteria, it could be administratively approved by Staff and if they did not meet all criteria, had the ability to apply for a special use permit. The applicant indicated they were proposing to care for foster children of no more than six in the home and would also have two live-in parents and the children would range in age from 8 to 18 and would not be driving; therefore, there would not be additional parking requirements other than for the live-in parents, which would be two parking spaces. The applicant complied with all requirements except for the minimum lot size, which was 4,613 square feet instead of the required 6,500 square feet. A letter was received from the Villages Homeowners Association in opposition to the application. In reviewing the application, Staff had no objection and was recommending approval of UN-08-10 with the following condition:

1. That, unless expressly authorized through a variance, waiver or another approved method, this development shall comply with all applicable codes and ordinances.

Commissioner Jo Cato disclosed she lived in the community, but the application did not effect her in any way, so she would be voting on the application.

Curtis Stuckey, 8337 Clear Falls Street, North Las Vegas, NV 89085 appeared on the application explaining they were not a group home, but were a foster home. They did not have rotating staff on several shifts, but had house parents who lived in the home with the children.

Chairman Dean Leavitt opened the Public Hearing. The following participants came forward:

- **Eric Theros, 3360 West Sahara Avenue #200, Las Vegas, NV 89102** explained the proposed group home was located within an HOA and the owner signed the governing documents when they purchase the home, stating it would remain a single-family residence and there would not be any commercial property and no

further subdivisions. While the HOA does not have a problem with a person being a foster parent, to actually run a foster group home would constitute a commercial business, so the applicant would be in violation of the governing documents, which would end up imposing anywhere from \$800 to \$1200 per month in fines.

Commissioner Dean Leavitt explained the Commission was not bound by HOA rules, that was a civil matter between the HOA and the property owner, but was a land use body.

Mr. Stuckey explained the home was not a half-way house and he did not deal with the Department of Corrections or juvenile sex offenders, it was a foster home only. For many children who were taken from their family for various reasons, this was the best that could be offered and felt he was doing a service for the community. He pointed out they got the children from the County and were licensed through the County and were in good standing.

Commissioner Cato made a correction for the record, that she lived in the Mountain Shadow community instead of the community associated with the item.

- **David Dasher, 4048 Carol Bailey Avenue, North Las Vegas, NV 89081** indicated he lived three houses down from the proposed location and was opposed primarily due to the reasons cited by the HOA and also had an issue with the poor track record of the property owner, pointing out he owned several homes in the community and there had been an extremely high turnover of tenants and there had been numerous HOA issues with maintenance of the home. He was opposed to the application and did not understand why the City would grant the variance and force the HOA to pursue legal action, which ultimately would be successful, to close the home.
- **Senta Lee, 4056 Carol Bailey Avenue, North Las Vegas, NV 89081** indicated the property was too small for the use and pointed out there had been a drug house next to her and across the street, both homes owned by the same owner as the proposed location. She had witnessed the children currently living at the proposed location sitting on the roof and did not feel they were being properly supervised and she did not feel safe having a group home in her neighborhood.
- **Lillian Bojorquez, 4053 Carol Bailey, North Las Vegas, NV 89081** was opposed to the application.
- **Charles Miller, 3535, Tundra Swan, Las Vegas, NV** indicated he was Charles Stuckey's partner and explained they were applying for a foster home and was totally unaware of the issues being brought up in the public hearing. He pointed out they were just renting the home and had been there for three or four months. They had not had any issues as far as disrupting the community. He pointed out, the foster children were focused on education and the house parents did not let them play in the community.

Commissioner Jo Cato thought what the applicant was doing was commendable and asked the applicant if the children went to school and what the process was with the County and also asked about the comment made about children sitting on the roof of the home.

Mr. Stuckey responded the focus was community based rehabilitation. He explained the children went to public schools and if one of the children was RPC'd or expelled from school, they would go to an alternative school. The home did not have rules on the walls because it was not a group home; they had people who lived in the home with the children and were trying to assume the role of a positive role model. If there was a married couple who was interested in being foster parents, they would accept them, but people did not want older children. He tried to find nice homes for the children to live in to get them out of the environment they came from and try to improve their future. Had he been aware of permits being necessary, he would have applied before being cited. He received a notice of violation and took the necessary steps to apply for a special use permit and felt he was being judged by the actions of previous renters.

Commissioner Joseph DePhillips stated the common area was 1500 to 2000 square feet smaller than required and asked the applicant how he would accommodate that shortage.

Mr. Stuckey responded the shortage was lack of yard space and explained most of the children were teenage boys and they utilized recreation centers and did not see how feasible a backyard would be for 13 to 18 year old boys and did not feel the yard space would be an issue.

Commissioner DePhillips interjected that children needed to room to play.

Commissioner Steve Brown asked how the maximum number of children allowed in the home was determined.

Mr. Jordan responded the maximum number of people allowed was based on the inside of the building, based on the sizes of the bedrooms and common area.

Commissioner Brown commended the applicant for what he was doing, but was not able to support the application due to the square footage of the lot being so much smaller than what was allowed.

Commissioner Dilip Trivedi asked Staff the definition of a group care facility and it how compared to a child care facility.

Mr. Jordan responded the definition for a group care facility was "A residential structure having common kitchen facilities occupied by persons who may or may not have physical, mental, emotional or social problems and living together for the purpose of training, observation, common support, or a combination thereof. A group care facility includes

residential facilities for groups as defined in Section 449.017 of the Nevada Revised Statutes. Section 449.017, a group care facility does not include individual residential care, halfway house, or recovering alcoholics and drug abusers are transitional homes”

Commissioner Trivedi was in support of the application and asked the applicant the make-up of the ages of the children in the home.

Mr. Stuckey responded the ages of the children in the home at the proposed location was from 14 to 18 years old.

Commissioner Trivedi asked where the children would play.

Mr. Stuckey responded they had memberships at the YMCA and Silver Mesa Recreation Center.

Commissioner Trivedi asked if there was transportation available from the home to take the children back and forth to the recreation facilities.

Mr. Stuckey responded they had transportation and explained the focus of the group home was for preparation for independent living, so it was the intent to help the children secure employment and to continue their education.

Commissioner Trivedi asked the applicant if he was aware if the application was approved, he would still have to deal with the HOA rules.

Mr. Stuckey indicated he understood.

Commissioner Trivedi asked the applicant how long he had been in business and if he had other facilities located in North Las Vegas.

Mr. Stuckey responded he opened his business October 1, 2007 and was currently operating three foster homes in North Las Vegas.

Commissioner Jo Cato asked Staff the minimum number of children allowed at the proposed location.

Mr. Jordan explained with a group care home, there were several factors to be considered such as the bedroom sizes, the indoor common areas and the parking requirements.

Commissioner Cato asked the applicant how many bedrooms were in the home.

Mr. Stuckey responded there were five bedrooms.

Chairman Dean Leavitt commended the applicant for what he was doing, but felt the square footage of the lot was not conducive, therefore, could not support the application.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITION

MOTION: Commissioner Cato

SECOND: Commissioner Trivedi

AYES: Commissioners Cato and Trivedi

NAYS: Chairman Leavitt, Vice-Chairman Brown, Commissioner DePhillips

ABSTAIN: None

The motion failed.

Chairman Dean Leavitt called for another motion.

ACTION: DENIED

MOTION: Vice-Chairman Brown

SECOND: Chairman Leavitt

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato and DePhillips

NAYS: Commissioner Trivedi

ABSTAIN: None

2. **UN-09-10 (40324) FOSTER CARE HOME (PUBLIC HEARING). AN APPLICATION SUBMITTED BY CURTIS STUCKEY ON BEHALF OF MOSHOSHAUMO LLC, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A PUD, PLANNED UNIT DEVELOPMENT DISTRICT TO ALLOW A GROUP CARE FACILITY ON A 4,663 SQUARE FOOT LOT WHERE A 6,500 SQUARE FOOT LOT IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 229 DELIGHTED AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 124-27-510-048.**

The application was presented by Marc Jordan, Planning Manager who indicated the application was similar to Item No. 1, explaining that normally group care facilities were a conditional use permit in Title 17, which meant as long as the applicant could demonstrate they complied with the criteria, it could be administratively approved by Staff and if they did not meet all criteria, had the ability to apply for a special use permit. A letter of opposition was received from the Mountain Shadows Homeowners Association President. Staff was recommending approval of UN-09-10 with the following condition:

1. That, unless expressly authorized through a variance, waiver or another approved method, this development shall comply with all applicable codes and ordinances.

Curtis Stuckey, 8337 Clear Falls Street, North Las Vegas, NV 89085 appeared on the application indicating the ages of the children were from 10 to 14 and there were currently three children in the home.

Chairman Dean Leavitt opened the Public Hearing. The following participants came forward:

- **Brian Ferry, 125 Delighted Avenue, North Las Vegas, NV 89031** indicated he was the President of Mountain Shadows Homeowners Association and understood the HOA issues would not be addressed. He stated a petition was obtained from the residents and he learned from one of the homeowners there had been a person in their home who was not supposed to be there and the Police were called and it was discovered the person was from the foster home. He pointed out some of the children were not supervised as they should be, which made some of the homeowners feel uncomfortable. He was opposed to the application and felt the applicant should understand the laws and regulations.
- **Norm Hewlett Jr., 6228 Hardgate Street, North Las Vegas, NV 89031** stated he felt what the applicant was doing was commendable; however, being a business owner and someone who had several properties throughout North Las Vegas, he should have investigated the rules and regulations before renting the home for a business and indicated he was opposed to the application.

- **Lance Leavitt, 6224 Hardgate, North Las Vegas, NV 89031** stated as a homeowner he was opposed to the application because to violate the ordinance and grant the variance inside a gated community negated the purpose of being in a gated community. As a firefighter and paramedic, on numerous occasions he had gone to homes like this and found many times, even though they were trying to do the right thing, it was very difficult to control, with two people, children that were not naturally you own. He felt backyards were important for children and was concerned how many children would be kept in the home and was not sure with the current guidelines there would be a limit.
- **Mary Guski, 6213 Hardgate Street, North Las Vegas, NV 89031** bought in a gated community for safety and felt if the lot size was too small the children would be a the park. She clarified if the use was approved, there would not be any juvenile delinquents and alcoholics.

Chairman Leavitt responded, that was correct,

Ms. Guski also asked if the age group of the children in the home could vary. She was opposed and did not want children with problems in her community. She pointed out the owner of the home owned at least 15 other homes in the community and if the application was approved, she felt he would add more foster homes.

- **Steven Oliai, 104 Peak Villa Avenue, North Las Vegas, NV 89031** agreed with other comments and was also opposed to the application.
- **Levie Carlisle, 208 Delighted Avenue, North Las Vegas, NV 89031** was opposed to the application. She indicated there had been some incidents with some of the children in the home and believed the Police had been called on one of the children who was breaking into vehicles. One child ran away and was in the garage of the neighbor two doors down, who did not call the Police because it was a young child. She was concerned with the mental state of some of the children and wondered if the live-in parents were equipped to deal with their issues and felt the home was a business.
- **Jennifer Cranford, 6225 Hardgate Street, North Las Vegas, NV 89031** was concerned with the number of people living in the home. Most regulations state if there were two adult males living in the home, they would each require their own bedroom, which would significantly reduce the number of people legally allowed to reside there. She also had an issue with the owner of the property, who also owned 25 other parcels in Mountain Shadows and was presently \$96,000 delinquent on property taxes, which raised the issue of whether or not the applicant would be allowed to maintain the property should the home be put into foreclosure for non-payment of taxes. She was opposed to the application.

Commissioner Jo Cato stated she had lived in the community at 26 Peak Villa for the past three years. She asked clarified the home was five bedroom, with two rooms dedicated for the caretakers, which left three bedrooms for foster children.

Mr. Stuckey responded that was correct. There was two beds in each of the three remaining bedrooms.

Commissioner Cato explained she lived in the same model home and the bedrooms were very small and asked how many children would be in each room.

Mr. Stuckey responded there would be two children in each room and clarified the County set the standards for the group home. The County licensing department dictated how many children could be in each room and how many in the home, which in this home was six children. The County checked out the home before a license could be obtained.

Commissioner Cato asked for an explanation for the child running away from the home.

Mr. Stuckey explained there was one Spanish child, who was removed from his home and placed in the foster home. He was in culture shock, as he had been placed with a predominantly African American family and he did not speak English and noone in the home spoke Spanish. Since the incident, the child was no longer living in the foster home, as it was learned the placement was not appropriate.

Commissioner Steve Brown appreciated the input from the residents and explained the Commission was a land use body and approvals were based on land use, not on the HOA rules and regulations. He also let the applicant know he appreciated what he was doing, but felt the lot size was too small.

Chairman Dean Leavitt explained lot size was a big issue and some of the residents indicated their children and grandchildren needed space and no matter what age, people needed space and felt the applicant was doing the children an injustice by not giving adequate space to play and due to the square footage of the lot was not in support of the application.

- **Spencer Cranney, 105 Delighted Avenue, North Las Vegas, NV 89031** stated he was secretary of the HOA stating a few years ago Standard Pacific Corporation purchased some property for a PUD and established a new community in North Las Vegas and in the process they fulfilled numerous requirements to meet zoning and all standards of the City to build a good solid family community. In doing that, they also presented the HOA's, which were a part of the whole unit of the Mountain Shadows Community, which was a single family development which should not have any commercial units and was opposed to the lot size. He also asked if Commissioner Cato had recused herself from the proposed application as she was a tenant of one of the petitioners for the application.

Commissioner Cato explained she was not a tenant, she was purchasing the property, but her decision on the application did not impact her purchasing the property.

Mr. Cranney thanked Commissioner Cato for the clarification.

Chairman Dean Leavitt closed the Public Hearing.

ACTION: DENIED

MOTION: Commissioner Cato

SECOND: Commissioner DePhillips

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato and DePhillips

NAYS: Commissioner Trivedi

ABSTAIN: None

3. UN-06-10 (40297) SNAP TOWING (PUBLIC HEARING). AN APPLICATION SUBMITTED BY SNAP TOWING ON BEHALF OF EXODUS HOLDINGS LLC, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN AN M-3, HEAVY INDUSTRIAL DISTRICT TO ALLOW ADDITIONAL SECURITY MEASURES CONSISTING OF AN ELECTRIC SECURITY FENCE, BARBED WIRE AND RAZOR WIRE. THE PROPERTY IS LOCATED AT 2201 NORTH COMMERCE STREET. THE ASSESSOR'S PARCEL NUMBER IS 139-22-202-004.

The application was presented by Marc Jordan, Planning Manager who explained the applicant was requesting the installation of an electric security fence on the interior of the existing fence, in addition to allowing barbed wire and razor wire. The surrounding uses to the west and south were zoned R-1 and developed with single-family detached homes and the property to the north was multi-family, so the property was surrounded on three sides by residential. According to the site plan, it appeared the fence was located on the property line, but after a site visit, it was noticed the fence on the west property line was off-set approximately 30 to 40 feet, as there was some sort of drainage channel and slope in the area and the fence along the south property line was set back approximately one to two feet from the actual property line; otherwise the fence was located on the north and east property lines. The applicant was proposing to install an electric fence on the inside of the existing metal fence that had chain link at the top of it and indicated the fence would consist of approximately 7,000 volts which would pulse every 1.3 seconds and the proposed height of the stand alone electric fence was approximately 10 feet. In looking at the criteria in the zoning ordinance for additional security measures, there were four items the applicant had to meet and read two of them into the record which the applicant did not comply with, one of them being Item No. 1. "The use of additional security measures are necessary to safeguard the property against unauthorized entry, to protect stored goods and products from theft and/or other unauthorized handling." Mr. Jordan explained even though Staff would agree the security measures may protect the property, the proposed security measures were a little extreme because the property was adjacent to single-family residential. Item No. 3. "The applicant must demonstrate that other alternatives are not available such as but not limited to the employment of a security guard, security services or the installation of a specially designed wrought iron fence making it difficult to climb in or out of the property." Mr. Jordan explained the applicant indicated they had tried to use guard dogs and security guards in the past; however it did not work. Because the fence was not on the property line, Staff felt a different type of fence could be constructed, possibly an eight foot high block wall with curved wrought iron making it difficult to climb. Mr. Jordan also related there were four items the applicant must demonstrate to warrant support of the application, and there were two items Staff did not believe the applicant complied with and read them into the record. Item No. 1 "That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community." Mr. Jordan explained Staff believed the security measures being proposed

were too intense and the ordinance was originally intended to apply to commercial and industrial areas and when the ordinance was presented to Council, Staff was requested to remove the commercial districts; therefore, it was only applying to industrial districts. It was Staff's opinion that if the use was too intense for commercial districts, that it would be too intense to allow razor and barbed wire and an electric fence to be located next to a residential district. Item No 2. "That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity." Mr. Jordan explained the use of an electrical fence in conjunction to the razor and barbed wire could be injurious to anyone who could accidentally become trapped in the fence. Staff was concerned the property values of the surrounding properties could be affected and could send the message that the area might not be secure. Even though the applicant had requested the use of a wrought fence, they currently had a metal fence with chainlink on top with ridges on the metal which would make it easy for someone to climb. Staff was recommending that other measures be used like block with curved wrought iron to make it more difficult to climb and believed there were other security methods that could be utilized on the property and the requested electric fence, barbed and razor wire was too extreme and did not comply with the overall intent of the ordinance, which was supposed to be for industrial districts, not adjacent to residential. Mr. Jordan read the revised memorandum from the Fire Department, who was also recommending denial: "During fire incidents in storage yards, fire personnel frequently need to climb over walls and spray water prior to disconnecting the power. An electric fence, especially if hidden from view, poses a hazard to responding fire personnel. Therefore, the Fire Department is opposed to this application." Mr. Jordan also pointed out the applicant had not shown the barbed and razor wire on their plans, so was not sure where it would be installed; but, if it were installed above the fence, it would be visible and would be detrimental to property values and if it were installed below the fence, Staff was concerned if someone were to jump the fence, they would not see the wire and be seriously injured. Staff was recommending denial of UN-06-10. Should the Commission determine approval was warranted, the following conditions were recommended:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. Existing metal fencing shall not be relocated from its current position.
3. The electric security fencing shall be installed on the inside of the block wall and metal fence as indicated on the plans.
4. The total height of the electric security fence shall not exceed ten (10) feet as depicted on the plans.
5. Barbed wire and razor wire shall be prohibited.

6. Bi-lingual warning signs for an electrical fence shall be posted every 50 feet on all exterior fencing and gates.
7. A building permit is required.

Clark Whitney of Snap Towing, 250 West Warm Springs Road, Henderson, NV 89011 and **Michael Pait, 7608 Fairfield Road, Columbia, SC 29203** appeared on the application. Mr. Whitney explained the electric fence would be installed behind a chainlink fence, so it could not be touched and would be in plain view to the Fire Department and would not be detrimental to them. He pointed out other properties in the area with electric fences, barbed wire and razor wire, with some of them being adjacent or close to residential areas and did not view it as being detrimental to a neighbor or being an extreme security measure. He was willing to amend the application to delete the use of razor and barbed wire and use only the electric fence. He did not understand the safety concerns for those who would be breaking into the property and asked Mr. Pait to speak regarding the electric fence, which was powered by a solar panel with a battery.

Mr. Pait explained the technology was not new and had been around since 1939. Literature was provided which had a safety report which was done independently by Dr. Webster from the University of Wisconsin. The fence would have a 12 volt battery powered by a solar panel and would pulse every 1.3 seconds. The charge was only on the wire for between one and 4 ten thousands of a second, which was immeasurable with a common tool used by most electricians. There have been approximately 2500 to 2800 of these devices installed around America and there were currently four electric fences installed in North Las Vegas and there have been no complaints or injuries noted in the past 10 years. One of Staff concerns was entrapment, which was also one of their concerns and he explained they operate under the international standards that dictate how the fence can be constructed and if constructed in that manner, there was no room for entrapment. There would always be a perimeter fence or wall and the electric fence would be located somewhere between three to six inches inside the perimeter wall. The wires were supported every 30 feet by fiberglass poles and even though the wires were strong, they could still be moved so a person could get free. Mr. Pait addressed the Fire Departments' concerns, explaining they did training with the Charlotte South Carolina Fire Department, who produced a video on how to get in and out of yards with electric fences. The locks would be cut off and there were emergency cut-off switches that could be installed.

Mr. Whitney added the suggestion by Staff to install a block wall was not feasible as the cost would be approximately \$300,000 to install.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jo Cato asked if there were other facilities with electric fences in North Las Vegas.

Jose Rodriguez of the Police Department responded the recycling facility on Losee Road had an electric fence.

Commissioner Cato asked if the Police Department had received any calls for that property.

Mr. Rodriguez responded the facility was cited by Code Enforcement in October, 2009 and he performed a site inspection and the Department found the fence to be a legitimate use for the area.

Commissioner Cato asked Mr. Pait what would happen if a child were to scale the electric fence in wet clothes.

Mr. Pait responded they would get a jolt, which was the design of the apparatus, but it would not seriously injure them. He explained the larger a person was, the bigger jolt they would receive.

Commissioner Joseph DePhillips asked Mr. Rodriguez his assessment of the site.

Mr. Rodriguez explained in November, 2009, he assessed the property, which was rather large and to employ security guards on such a large site, the hours that would be needed and the manpower it would take, he found that it would be more feasible to install a high block wall with outriggers or the electric fence as requested by the applicant and it was recommended by the Police Department to post signs, which would be bi-lingual notifying anyone in the area the fence was electric to avoid any mishaps.

Mr. Pait stated International Standards required there be a sign every 50 feet with the international symbol identifying the electric fence and in this case would be in English and Spanish.

Commissioner DePhillips commented to the applicant, having razor wire, barbed wire and an electric fence was a little extreme.

Mr. Whitney stated he would remove the razor wire and barbed wire from the application and would only be requesting the electric fence.

Commissioner Steve Brown requested the removal of the barbed wire and razor wire be a requirement of approval.

Mr. Jordan stated that was listed in Condition No. 5.

Commissioner Brown felt if the razor wire and barbed wire were removed and a less obtrusive electric fence installed, it would benefit the neighborhood as well as be more effective at removing the attractive nuisance in the neighborhood and was in support of the application.

Commissioner Dilip Trivedi counted 25 residential properties abutting the site for the proposed electric fence; therefore, was not in support of the application.

Chairman Dean Leavitt was concerned with the fence being similar to a tazer and asked Mr. Pait if there was a possibility an electric fence could be lethal to someone if they had a heart condition and asked if there had been any incidents with that happening.

Mr. Pait responded the technologies between tazers and electric fences were different, explaining the electric fence system was almost fail safe and if the charger did not operate, the system would not operate and the voltage was restricted by the 12 volt battery and it only pulsed every 1.3 seconds, so there was plenty of time to get off of it.

Commissioner Trivedi asked if anyone on the Commission would like to live next to a property with an electric fence.

Commissioner Cato explained the residents who lived next to the property had been there and were familiar with the request and if they were concerned, would have been at the meeting to protest the use.

Commissioner Cato asked for clarification on Condition No. 3, which talked about the block wall and asked if it was new or existing.

Mr. Jordan responded the existing fence was metal with chainlink at the top and there was a small section of the fence off of Commerce Street that was block.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS;
FORWARDED TO CITY COUNCIL FOR FINAL CONSIDERATION

MOTION: Commissioner Cato

SECOND: Vice-Chairman Brown

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato and DePhillips

NAYS: Commissioner Trivedi

ABSTAIN: None

4. UN-07-10 (40313) REBEL OIL (PUBLIC HEARING). AN APPLICATION SUBMITTED BY REBEL OIL COMPANY, INC., PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A C-2, GENERAL COMMERCIAL DISTRICT TO ALLOW A 22-FOOT HIGH FREESTANDING SIGN WHERE AN EIGHT (8) FOOT HIGH MONUMENT SIGN IS THE MAXIMUM HEIGHT ALLOWED. THE PROPERTY IS LOCATED AT 250 WEST CRAIG ROAD. THE ASSESSOR'S PARCEL NUMBER IS 139-03-610-003.

The application was presented by Marc Jordan, Planning Manager who explained the application was presented to the Commission on October 28, 2009, where the applicant requested a 22 foot high sign and at that time the Planning Commission denied the request. This was essentially the same request with one addition the applicant was requesting a waiver of the Design Guidelines, asking that the sign not be required to comply or complement the materials of the building and was proposing a metal sign on the property. In reviewing the application, the property was located directly across from a developed residential subdivision consisting of single and two-story homes. The property was located on the north side of Craig Road, which was a 120 foot street and there was a drainage channel; however, none of those improvements would actually hinder the residents of that subdivision from seeing the sign. There was some landscaping in the area, but it was not that dense and most of the dense landscaping was at the intersection and would not hinder the sign from being visible. The applicant indicated there were four other sign along Craig Road that were taller than eight feet, which was true. Two of them were within the center, Buffalo Wild Wings and U-Haul, which was permitted for a 30 foot sign and Buffalo Wild Wings was permitted for an 18 foot tall sign; however, both signs were approved prior to the adoption of the ordinance which limits the height of signs. Mr. Jordan pointed out Buffalo Wild Wings applied for a use permit in 2005 for a 22 foot tall sign, which was denied by the Commission. The applicant indicated another sign on Craig Road, which was approved to be taller than 18 feet, not a monument sign at that time; however, there was no developed residential in that particular area. Staff was recommending denial of UN-07-10. Should the Commission determine approval was warranted, the following conditions were recommended:

1. That, unless expressly authorized through a variance, waiver or another approved method, this development shall comply with all applicable codes and ordinances.
2. The sign shall be constructed in compliance with similar materials, colors, textures or finishes as the facade of the principle structure.
3. The signage shall not exceed 125 square feet.
4. The height of the sign shall not exceed 22 feet.
5. The proposed sign shall not be located within the traffic sight visibility zone.

Lyndsee Hill with Sign Innovations, 242 Sunpac Avenue, Henderson, NV 89011 appeared on behalf of the applicant indicating she and the owner had a meeting with Councilman Richard Cherchio, who advised them to continue the application, to allow time to hold a neighborhood meeting before the application was heard by the Commission. She also pointed out Staff was incorrect on the size of the signs currently located on Craig Road, stating the sign at Buffalo Wild Wings was 20 foot tall and the U-Haul sign was 40 foot tall. Ms. Hill requested that UN-07-10 be continued for one month.

Vice-Chairman Steve Brown asked the radius for notification on the use permit and asked if the residents on Craig Road would have been notified.

Mr. Jordan responded notification was sent out to those properties within 500 feet.

Vice-Chairman Brown recommended the application be denied rather than continued.

Commissioner Jo Cato agreed with Vice-Chairman Brown, stating there had been a lot of work put into Craig Road and was not in support of the application.

Commissioner Joseph DePhillips agreed with other Commissioner's comments.

Chairman Dean Leavitt opened the Public Hearing. The following participant came forward:

- **Scott Sauer, no address stated** indicated he spoke on the proposed sign when it was presented previously and was still opposed to the application.

Chairman Leavitt closed the Public Hearing.

ACTION: DENIED

MOTION: Vice-Chairman Brown

SECOND: Commissioner Cato

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato, Trivedi and DePhillips

NAYS: None

ABSTAIN: None

5. **VN-01-10 (40317) LAS VEGAS PAVING SIGN (PUBLIC HEARING). AN APPLICATION SUBMITTED BY LAS VEGAS PAVING CORPORATION ON BEHALF OF LVPC SY, LLC, PROPERTY OWNER, FOR A VARIANCE IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO ALLOW A THREE (3) FOOT SETBACK WHERE A TEN (10) FOOT SETBACK IS THE MINIMUM REQUIRED FOR A PROPOSED SIGN. THE PROPERTY IS LOCATED AT 3401 NORTH FIFTH STREET. THE ASSESSOR'S PARCEL NUMBER IS 139-10-704-004.**

The application was presented by Robert Eastman, Principle Planner who explained the application was for construction of the proposed monument sign heard by the Commission in September, 2009. The sign was a large monument sign, which was a large concrete pad with an old fashioned paving machinery. The site was unique because of the grade differential between the street and the proposed site; therefore, Staff feels that a unique circumstance does exist and a variance was warranted. The proposed sign would not intrude upon the traditional vision triangle that was required. The set-backs were to provide adequate site visibility; however, because of the difference in height of the elevation already that was not a concern; therefore, Staff was recommending approval of VN-01-10 with the following conditions:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. That a three (3) foot setback along the subject property's eastern property line shall be allowed for the sign.

Crockett Wirthlin of Las Vegas Paving, 3401 North Fifth Street, North Las Vegas, NV 89031 appeared on behalf of the applicant indicated he concurred with Staff recommendation.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Vice-Chairman Steve Brown asked if the sign placement would affect the widening of North Fifth Street.

Lorena Candelario of Public Works explained the sign should be placed inside the property, so the City had the additional right-of-way for the area needed for the North Fifth Street widening.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Vice-Chairman Brown
SECOND: Commissioner DePhillips
AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato, Trivedi and
DePhillips
NAYS: None
ABSTAIN: None

6. **VN-02-10 (40325) SMOG HUT @ CENTENNIAL AND GOLDFIELD (PUBLIC HEARING). AN APPLICATION SUBMITTED BY GOLDFIELD I, LLC, PROPERTY OWNER, FOR A VARIANCE IN A C-2, GENERAL COMMERCIAL DISTRICT TO ALLOW A TEN (10) FOOT BUILDING SETBACK WHERE A 30 FOOT BUILDING SETBACK IS THE MINIMUM REQUIRED FROM A RESIDENTIAL ZONE BOUNDARY. THE PROPERTY IS LOCATED AT 70 EAST CENTENNIAL PARKWAY. THE ASSESSOR'S PARCEL NUMBER IS 124-22-812-003.**

The application was presented by Robert Eastman, Principle Planner who explained the related use permit was continued from the December 9, 2009 meeting. At that time, the applicant was requesting the smog hut be located along the rear property line closer to the residential and taking away a couple of the parking spaces. At that time, Staff did not support the use permit due to the reduction in parking; furthermore, the proposed location would require a variance because of proximity to the residential district. The variance is the request to locate the smog hut on the site. Staff does not feel there is a unique circumstance on the property to make the requested variance different than other commercial properties located in the vicinity or along Centennial Parkway and it would give the applicant an unfair advantage over other commercial properties; therefore, Staff felt the conditions for the variance had not been met and was recommending VN-02-10 be denied. However, should the Commission determine approval was warranted, the following conditions were recommended:

1. That, unless expressly authorized through the variance, waiver or another method, this development shall comply with all applicable codes and ordinances.
2. The smog check facility building must be setback ten (10) from the north property line.
3. Electrical wiring for the kiosk must be in compliance with 2000 edition of the Uniform Fire Code (Table 5202.6-A).

George Garcia, G.C. Garcia Inc., 1711 Whitney Mesa Drive, Suite 110, Henderson, NV 89014 appeared on behalf of the applicant explaining when the use permit was continued, it was felt the use was appropriate, but the location was not acceptable. A location was necessary to minimize the impact on the neighborhood. It was felt a more appropriate location for the smog hut would be on the back property line rather than on Goldfield Street. The building has been located to the rear along the back property line and would be attractively done and would have minimal impact to surrounding properties. The use would provide a service to the neighborhood and community and met code requirements.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Chairman Leavitt agreed with the applicant, that the proposed location was better suited for the smog hut and even if multi-family were to be developed, the smog hut would not cause a lot of noise and was in support of the application.

Commissioner Dilip Trivedi asked Mr. Garcia what would be done to buffer the use from the R-3, Multi-family and if the landscape would be increased.

Mr. Garcia responded the conditions required a 10 foot buffer and if there was an additional requirement for landscaping, he would be willing to add more landscaping.

Commissioner Trivedi asked what landscaping was being provided.

Mr. Garcia responded there was a condition requiring 10 foot separation, which was the preferred solution, but creating landscaping behind the building when it was barely visible was probably not going to do much; but, if that was what was required, they would comply.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Vice-Chairman Brown

SECOND: Chairman Leavitt

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato, Trivedi and DePhillips

NAYS: None

ABSTAIN: None

OLD BUSINESS

7. **UN-67-09 (40045) SMOG HUT (PUBLIC HEARING). AN APPLICATION SUBMITTED BY TERRY COLLINS ON BEHALF OF GOLDFIELD 1 LLC, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A C-2, GENERAL COMMERCIAL DISTRICT TO ALLOW AN AUTOMOBILE SERVICE FACILITY (SMOG STATION). THE PROPERTY IS LOCATED AT 70 EAST CENTENNIAL PARKWAY. THE ASSESSOR'S PARCEL NUMBER IS 124-22-812-003. (CONTINUED DECEMBER 9, 2009)**

The application was presented by Robert Eastman, Principle Planner who explained under normal circumstances and in light of the previous item, they would normally recommended approval since they do not have concerns with the use, the fact was that the proposed smog hut added an additional use to the site and caused it to be out of compliance with the parking regulations and requirements. Parking was inadequate on the site; therefore, Staff was recommending denial of UN-67-09. Should the Commission determine approval was warranted, the following conditions were recommended:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. This use permit is site specific and non transferrable.
3. Relocate the proposed kiosk building to the west parking lot along Goldfield Street.
4. The operation of the smog hut shall not impede traffic in the drive aisle.

George Garcia, G.C. Garcia Inc., 1711 Whitney Mesa Drive, Suite 110, Henderson, NV 89014 appeared on behalf of the applicant stating the parking being used for the smog hut was using spaces that were not used and the property was over parked.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Chairman Leavitt asked Staff how short the parking would be with the smog hut taking up some of the spaces.

Mr. Eastman responded the center would be four spaces short.

Commissioner Jo Cato asked about the wording on Condition No. 3 which stated the smog hut would be located along Goldfield.

Mr. Eastman explained based upon the new approved location, Condition No. 3 would be deleted.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS WITH
THE DELETION OF CONDITION NO. 3

MOTION: Commissioner Cato

SECOND: Vice-Chairman Brown

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Cato, Trivedi and
DePhillips

NAYS: None

ABSTAIN: None

PUBLIC FORUM

There was no public participation.

DIRECTOR'S BUSINESS

There was no report given.

CHAIRMAN'S BUSINESS

There was no report given.

ADJOURNMENT

The meeting adjourned at 7:59 p.m.

APPROVED: February 24, 2010

/s/ Dean Leavitt
Dean Leavitt, Chairman

/s/ Jo Ann Lawrence
Jo Ann Lawrence, Recording Secretary