



WASHOE COUNTY PLANNING COMMISSION Meeting Minutes

Planning Commission Members

Larry Chesney, Chair
Francine Donshick, Vice Chair
Thomas B. Bruce
Sarah Chvilicek
Kate S. Nelson
Larry Peyton
Pat Phillips
Trevor Lloyd, Secretary

Tuesday, September 1, 2020
6:30 p.m.

Washoe County Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Planning Commission met in a scheduled session on Tuesday, September 1, 2020, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

No members of the public were allowed in the Commission Chambers due to concerns for public safety resulting from the COVID-19 emergency and pursuant to the Governor of Nevada's Declaration of Emergency Directive 006 Section 1 which suspends the requirement in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate. This meeting will be held by teleconference only.

The meeting was televised live and replayed on Washoe Channel at: <https://www.washoecounty.us/mgrsoff/Communications/wctv-live.php> also on YouTube at: <https://www.youtube.com/user/WashoeCountyTV>

1. *Determination of Quorum

Chair Chesney called the meeting to order at 6:30 p.m. The following Commissioners and staff were present:

Commissioners present: Larry Chesney, Chair
Francine Donshick, Vice Chair (Remote via Zoom)
Thomas B. Bruce
Sarah Chvilicek
Kate S. Nelson (Remote via Zoom)
Larry Peyton
Pat Phillips

Staff present: Trevor Lloyd, Secretary, Planning and Building
Dan Cahalane, Planner, Planning and Building
Julee Olander, Planner, Planning and Building
Nathan Edwards, Deputy District Attorney, District Attorney's Office (Remote via Zoom)
Katy Stark, Recording Secretary, Planning and Building
Donna Fagan, Office Support Specialist, Planning and Building

2. *Pledge of Allegiance

Commissioner Chvilicek led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards provided the ethics procedure for disclosures.

4. *Appeal Procedure

Secretary Lloyd recited the appeal procedure for items heard before the Planning Commission.

5. *General Public Comment and Discussion Thereof

Chair Chesney opened the Public Comment period. There were no requests for public comment; Chair Chesney closed the public comment period.

6. Approval of Agenda

In accordance with the Open Meeting Law, Commissioner Chvilicek moved to approve the agenda for the September 1, 2020 meeting as written. Commissioner Bruce seconded the motion, which passed unanimously with a vote of seven for, none against.

7. Approval of August 4, 2020 Draft Minutes

Commissioner Donschick moved to approve the minutes for the August 4, 2020 Draft Minutes, Planning Commission meeting as written. Commissioner Chvilicek seconded the motion, which passed unanimously with a vote of seven for, none against.

8. Planning Items

A. Abandonment Case Number WAB20-0003 (Pahute Abandonment) – For possible action, hearing, and discussion to approve an abandonment of Washoe County's interest in ±1,197 square feet (±31 feet) of public right-of-way at the end of Pahute Road, 175 feet west of Nevada State Route 28. If approved, the property will be abandoned to the abutting property owner at 425 Pahute Road. The request to abandon is pursuant to NRS 278.480 and related provisions in the Washoe County development code.

- Applicant: Gilanfarr Architecture
- Property Owner: Kurt D. Callier Living Trust
- Location: 425 Pahute Rd.
- Assessor's Parcel Number: 123-143-11
- Parcel Size: 0.26 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 806, Vacations and Abandonments of Streets and Easements
- Commission District: 1 – Commissioner Berkbigler
- Prepared by: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775.328.3627
- E-Mail: jolander@washoecounty.us

Chair Chesney opened the public hearing and called for Commissioner disclosures. There were no disclosures.

Julee Olander, Washoe County Planner, provided a Staff presentation.

Applicant, Quina Williams, Gilanfarr Architecture, provided a PowerPoint presentation.

Commissioner Chvilicek inquired about what was stated about homes being non-conforming. Ms. Olander said they are legal, non-conforming. There is a neighboring home that was built over the property line. There could be variance. Commissioner Chvilicek asked if this will create a cascading effect. Ms. Olander said the neighborhood is unique; the streets are narrow. They might not have the same circumstances where they are built in the right-a-way like this one is. Commissioner Chvilicek asked for clarification that this application is for abandonment, not to approve the dwelling. Ms. Olander confirmed and stated if the property owner wants to move forward and build more than 10%, then the property owner needs to meet the front setback or will have to apply for a variance.

Commissioner Nelson said their plan looks like it's tear-down and build new. If they keep the same square foot coverage, does that mean they qualify to keep the two-foot setback? Ms. Olander said if their footprint expands more than 10%, they can't use that 20-foot setback. Ms. Olander said she believes they will come in and apply for a setback variance which will go before the Board of Adjustment which doesn't guarantee approval.

DDA Edwards said these are good questions for a complicated circumstance for building, neighborhood, legal and historical track records. DDA Edwards reminded the Commissioner they are not deciding if the house is legal, non-conforming, was/was not legally built; the Commission isn't deciding if other properties are legal, non-conforming. Rather, they are deciding if the abandonment is materially adverse to the public and if it complies with the master plan. He said he heard references to variance concepts like hardship and difficulty with construction and shape of the lot and slopes. Those are variance items whether they are a hardship; they are not abandonment items. The abandonment is the focus. Whether they rebuild in the future, it's not what is being decided. Their building footprint or asking for variance, that is not being decided tonight. He cautioned the Commissioners regarding stating conclusions for future plans.

Chair Chesney asked about right-of-way historically. DDA Edwards said this is complicated historically. DDA Edwards said we might not know all the answers of the historical aspects. The people that did those approvals and inspections aren't around anymore. Those documents are either lost or hard to find in many of these cases. He said we need to focus on the three findings in an abandonment case. We have a property that has boundaries with an existing house and driveway. They are shown to encroach into the right-a-way and asking for the County to abandon.

Chair Chesney opened public comment.

Ms. Olander stated she knew some people were going to call and make public comment. Katy indicated she was having technical difficulty.

Linda Greifenstein – Linda's husband spoke and stated they were the closest neighbor on the street. He said they are opposed to the request. He said he would like to thank Julee for the excellent work that she did. The original abandonment request had numerous ambiguities, and she's turned it into something concrete that you can build on, whereas the original proposal was not. She's tried to do the best possible to mitigate the damage to the neighbors though full mitigation is not possible. He said he would like to thank the architect who has been extremely collaborative. He said first of all is the issue of what public interest is being served by abandoning this property. He said he realizes the owner is not responsible for the abusive structure, but it is abusive, and he knew that when he bought it. He said he plans on tearing down the house and it's the perfect opportunity for the commissioner to establish its rights to the County right-of-way

and have them build whatever house on the land he owns. He said he has no problem if the owner builds a green house on that property. This is approved public land; it encourages other such behavior and likely generate extremely negative publicity along the line of land grab for free land in Crystal Bay. There are safety issues. Originally, the application was for an additional 20 feet. Then it was cut back to five feet, and then Julee has cut that back down to two feet. The FedEx drivers up here have 23-foot trucks and already have significant difficulty turning around. Today, the driver managed to hit the house while he was turning around. He said he asked TTT from sparks, FedEx contractor, if they could turn around with an additional 5 feet; they said no. The turnaround is narrower with snow along the house and area which Washoe County has in abandonment from State. This will impact fire and ambulances. It serves delivery vehicles, neighbor, and me. He said we oppose it. He should build on the land that he owns.

Daniel Kotnik, resident on Wassou, said he has a personal interest perspective and less specific interest in the road on Pahute and maybe that's really more with the tearing down of the home and the additional construction vehicles in the disruption that that would cause. He said he is concerned with the result of a home with a much higher profile that would obstruct the beautiful views that certain homes currently enjoy, but he was not sure if that has any bearing on the decision. He asked if the presentations from Ms. Olander and Ms. Williams will become part of the record. Katy said she posts those on the website within 24 hours of the meeting.

Victor Elgohary said he wrote a five-page detailed legal brief on the issues that are before you but would like to make a few comments based on the comments that have been made. First, the main issue here is coverage. He said he strongly disagrees, being a homeowner and an attorney having read the TRPA ordinances. There are plenty of opportunities and ways in which we can narrow this down to move that home onto the lot. There is absolutely no reason under the TRPA that they can just flatly deny what the applicant is trying to do long term. As for the grading, the issues surrounding that as real estate developer, the grading is disruptive 1-2 months between May and October for proper grading. It's inconvenient but not for that long. There are several non-conforming homes built outside of setbacks, but they have variances. This will have a cascading effect. It will continue to happen because of what has happened. He said he disagrees with counsel. He said he has had large freights make deliveries for his home improvement. Severe public interest by continuing narrowing the road and we will be denied basic services.

John Clymer said he wanted to emphasize the points be made. He said he read some comments about fire service access from the road above on Wassou. He said he was concerned that the neighbors felt that way. He spoke about the steepness of the slopes and access with ladder trucks. Those points need to be considered. Big trucks need help navigating. It's in need of expansion further down the road. Snow removal is a concern on this road. It's irresponsible comments about fire accessibility.

MOTION: Abandonment Case Number WAB20-0003 (Pahute Abandonment)

Commissioner Chvilicek moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve, with the conditions included as Exhibit A to this matter, Abandonment Case Number WAB20-0003 for Kurt D. Callier Living Trust, having made all three findings in accordance with Washoe County Code Section 110.806.20.

1. Master Plan. The abandonment or vacation is consistent with the policies, action programs, standards and maps of the Master Plan and the Tahoe Area Plan; and
2. No Detriment. The abandonment or vacation does not result in a material injury to the public; and

3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service.

Commissioner Donshick seconded the motion. The motion carried six in favor, one against. Commissioner Bruce opposed.

B. Special Use Permit Case Number WSUP20-0013 Ormat Geothermal – For possible action, hearing, and discussion to approve a special use permit for 1) the establishment of an Energy Production, Renewable use type including two 24MW geothermal power plants, 2) the establishment of a Hazardous Materials use, in the form of 720,000 lbs. of flammable pentane gas (a refrigerant) for use as a turbine working fluid, 3) major grading for 194.9 acres of ground disturbance, including 300,000cy of excavation, for well pads and access roads and 4) a 120kV power transmission line that extends ±21.6 miles over 20 parcels. The application also requests to vary landscaping, parking, and grading standards by waiving all landscaping requirements, waiving the paved parking requirement, and allowing grading height differentials of greater than 10ft from natural grade. This project meets the standard for a project of regional significance, because it will generate more than 5 MW of electricity, require construction of 2 substations, and require the construction of a new transmission line and will require approval by the regional planning authorities before any approval at the county level would take effect. The two substations will be located on APNs 071-070-13 and 071-030-06. This project also requires recommendation to amend to the Regional Utility Corridor Map from the Board of County Commissioners. This project will also need to comply with all Federal and State approvals before any approval at the county level would take effect.

- Applicant: Orni 36, LLC
- Property Owner: Ceresola Brothers, LLC; GM Gabrych Family LTD PTSP; Kosmos Company; New Nevada Lands LLC; United States of America; US Geothermal Inc
- Location: Well Heads – approximately 10 miles north of Pyramid Lake
Transmission Line – approximately 10 miles east of the southern tip of Pyramid Lake south to the border of Washoe County
- Assessor's Parcel Numbers: Transmission Line - 079-180-02, 079-180-12, 079-180-45, 079-570-01, 079-570-07, 079-570-13, 079-320-12, 079-320-18, 079-320-04, 079-170-39, 079-180-34, 079-180-37, 079-180-44, 079-320-42, 079-320-47, 079-320-52, 079-320-55, 079-570-02, 079-570-06, 079-570-12
Power Generation - 071-070-13, 071-030-06
Wells and Well Pads - 071-030-07, 071-060-18, 071-070-09, 071-070-12, 071-070-16, 071-070-18, 071-070-19, 079-170-02
- Parcel Sizes: Varies. Affected area: 189.9 acres
- Master Plan Category: Rural
- Regulatory Zone: General Rural
- Area Plan: High Desert/Truckee Canyon
- Citizen Advisory Board: Gerlach/Empire and East Truckee Canyon
- Development Code: Authorized in Article 302, 324, 438, 810, 812
- Commission District: 5 – Commissioner Herman
- Prepared by: Dan Cahalane, Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775.328. 3628
- E-Mail: dcahalane@washoecounty.us

Chair Chesney opened the public hearing. Commissioner Nelson stated she works for JP Engineering, who is a client of Ormat on a separate project. DDA Edwards asked what her position is with the company. Commissioner Nelson said she is a civil engineer and project manager. She confirmed it's her fulltime career. He asked if her firm has worked for them. She said JP Engineering has worked for Ormat for 10 plus years. Commissioner Nelson decided to recuse herself. DDA Edwards agreed. She excused herself from the zoom meeting. Commissioner Phillips stated she was an observer of the geothermal negotiations 20 years ago. DDA Edwards asked for details. She stated she used to work for a member of congress and when he wasn't present at the meetings, she would attend and report back to the congress person. It was a different facility at Galena, but it was the same company. Commissioner Phillips said she can be impartial; DDA Edwards said that sounds reasonable.

Dan Cahalane, Washoe County Planner, provided a Staff presentation.

Applicant, Andy Durling, Wood Rodgers, provided a PowerPoint presentation.

Commissioner Donshick requested clarification – The Paiute Tribe put together a packet of concerns. Mr. Cahalane said those will be addressed in draft environmental assessment and in table 3.2. of the draft environment. H.D. 7.2 policy which was a link to draft environmental assessment. The geothermal table was separated from the Pyramid Lake water table so there is no conflict there. He said that was addressed in table 3.2. She said the response from the Paiute tribe said that is not true. Mr. Cahalane referenced the table noting there is no conflict.

Commissioner Phillips asked if there was an archeological study. Mr. Cahalane said it's in section 3.2.6 of the draft environmental assessment. He referenced the archeological resources.

Commissioner Chvilicek asked the applicant, in presentation, drilling will start this year, and operational by next year. Mr. Durling clarified and said drilling will start this year, construction next year, and operation by 2022. Mr. Durling introduced additional Ormat representatives. Commissioner Chvilicek said considering the additional processes that this will go through, they believe it's still operational by 2022. Ben Orcutt from Ormat provided the timeline. He said it will be phased – drill this year, figure out injections wells because we know targets where we can injection sites. He said we anticipate 3-4 wells drilled in this year and first part of next year. Start construction in June next year. It will take 9 months for power plant and transmission line take much less time. Commissioner Chvilicek said Dan referenced links but we have paper form applications. She said she cannot find the environmental assessment. She requested more guidance. Mr. Cahalane said it's in the area plan policies, 7.2, there is a link there and its posted digitally. You can get it on the BLM website. He said it's not part of the application and didn't want to add the 200 pages but will add it in the future.

Public Comment:

Donna Marie Noel, Natural Resources Director for Paiute Tribe – She said she has been intimately involved with the geothermal exploration on the Pyramid Lake reservation for over 10 years, maybe even 15 years, and they are very concerned about this project. She said she submitted extensive comments to BLM and Washoe County. She said we feel that the wells are very close to the reservation and vaulting structures that come off the reservation. It will have negative impact on geothermal resources and pull geothermal resources away from reservation. Fault structures are vertical in areas. You can see ground water and springs are supporting newly big horned sheep and other wildlife. It's going to get pumped from one side of the valley to another. There

are places in the lake where geothermal water go into the lake. It might have an impact on fish species in the lake. She said we have spoken with BLM; they have a conflict of interest. They have jurisdiction over tribal and BLM land. She said we are opposed to this project as it given in the EA. The EA is just a draft. She said have not received comments back from our comments that we submitted. She said we have expertise that show they didn't do enough studying and took old research. We are opposed to passing the geothermal special use permit for Ormat.

Pyramid associates – a family member of the Pyramid associates said they are opposed to the project because they are directly adjacent to the project. He said they have 1084 acres of fee land which is surrounded in the northern part of the well field. This well field is the injection wells. He said we have geothermal resources, mineral resources on our property. He said they had a geological, hypothermal report by a professional geologist report outlines the probable damage along the property lines that this would create. These injection wells would be 50 feet away to the property line injecting cool geothermal waters which would be cooling our resources. He said we have significant mineral and geothermal resources. Injection wells will be sited on faults. It would cause seismic activity. He said the access road goes through his property which is unapproved. They have no easements or right-of-way which they use as main access. It will damage the property. He said the Commission is supposed to oppose the project if it damages adjacent properties. He said he provided reports and maps.

Burning Man Project, Lina Tanner, Senior Advisor, Government Affairs: The Burning Man Project (BMP) submits these comments in regards to the Special Use Permit (SUP) submitted by ORNI 36 LLC (Ormat) for an expanded geothermal plant and related transmission infrastructure to be located in the San Emidio Desert Basin, and to include federal geothermal leases within public and private leased lands (the Project). BMP is generally supportive of the expanded use of renewable energy sources in the resource mix for Northern Nevada. However, BMP also believes that adequate and fair planning practices must be implemented in order to avoid unintended consequences of moving forward with a project without the completion of adequate studies to determine the interconnection of the geothermal resources in the area's basins. The concerns stated in BMP's comments today echo the concerns expressed by the Pyramid Lake Paiute Tribe (the Tribe) before this Commission and before the Bureau of Land Management in the NEPA scoping process as to the approval of this Project prior to conducting a full environmental impact statement (EIS). BMP is also a landowner in close proximity to the Project. As such, the connectivity of the geothermal resources of the San Emidio Desert Basin with those of the basins throughout the region should be addressed prior to approval of the Project. The BLM issued a Draft Environmental Assessment dated May 2020 (the DEA). Within the DEA, the BLM notes the preferred alternative (to allow the Project) was the only alternative offered. This is not accurate. Both the Tribe and Western Watersheds Project advocated for a full EIS before making a recommendation to proceed with the Project. The Tribe also submitted its own technical memorandum to the BLM indicating evidence of connectivity of the geothermal resources in the neighboring basins, and as such, it is in conflict with the DEA. The DEA does not appear to adequately address these conflicts. The Tribe suggests that the BLM require Ormat to conduct "an investigation, including pump tests, hydrological modeling, temperature analysis, among other research, to quantify the Project's impacts—both from withdrawal and reinjection—on the Tribe's federal reserved groundwater rights within the San Emidio Basin, and within other adjacent areas. This investigation should include an analysis of impacts to both the Tribe's geothermal resources and impacts to groundwater in the alluvium." BMP agrees. Such a study would likely reveal potential impacts to BMP's parcels lying near the Project area. The San Emidio Desert Basin has been designated by the Nevada Division of Water Resources (NDWR) due to existing, and severe, exceedance of the perennial yield. Further study of the risks associated with hydrologically connected basins and surface waters, and the ten-fold increase in groundwater pumping proposed by the Project would give the Planning Commission a better understanding of the Project's impacts, and whether the Planning Commission can affirmatively find that the

issuance of SUP to the Project (a) “will not be detrimental to public health, safety or welfare; injurious to property or improvements of adjacent properties or detrimental to the character of the surrounding area;” and (b) “that the project is not unduly detrimental to surrounding properties, land uses, and the environment in general.” Washoe County Code 110.810.30. Thank you for allowing the opportunity for the BMP to submit this comment on this important issue.

With no further requests for public comment, Chair Chesney closed the public comment period.

MOTION: Special Use Permit Case Number WSUP20-0013 (Ormat Geothermal)

Commissioner Peyton moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve with conditions Special Use Permit Case Number WSUP20-0013 for Orni 36, LLC for the following requests 1) establishment of an Energy Production, Renewable use type, 2) the establishment of a Hazardous Materials use, 3) major grading, and 4) request to vary parking, landscaping, and grading standards as recommended in the conditions of approval in Exhibit A , having made all five findings in accordance with Washoe County Code Section 110.810.30 and the additional findings in accordance with Washoe County Code Section 110.810.35, 40, & 42:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the East Truckee Canyon and High Desert Area Plans;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for energy production, renewable; utility services, and hazardous material uses and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

110.810.35 Development of Natural Resources:

6. That to proposed development is not unduly detrimental to surrounding properties, land uses and the environment in general.
7. That to proposed development will not unduly block scenic views or degrade and surrounding scenic facilities.
8. That to proposed development will reclaim the site and all affected areas at the conclusion of the operation.

Chair Chesney seconded the motion. Commissioner Chvilicek suggested a rollcall vote so the public understands the findings with each member’s vote. DDA Edwards noted it’s the chair’s discretion. Chair Chesney asked for a rollcall vote:

Commissioner Chesney – Aye

Commissioner Donshick – Nay – cannot find make findings number 4 and 6.

Commissioner Bruce – Nay – won't disclose the findings.

Commissioner Chvilicek – Nay – cannot make finding number 4.

Kate Nelson was not in the meeting since she had recused herself from this item.

Commissioner Peyton – Aye

Commissioner Phillips – Nay – won't disclose the findings.

The motion was denied due to lack of support. DDA Edward recommended to make a motion to deny.

Commissioner Donshick made a motion to deny Special Use Permit Case Number WSUP20-0013 (Ormat Geothermal). Commissioner Bruce seconded the motion. Chair Chesney and Commissioner Peyton opposed. The roll call vote as follows:

Ayes – Phillips, Chvilicek, Bruce, Donshick.

Nays – Peyton, Chesney.

The motion carried four in favor, two against.

The Commission took a 5-minute recess to get Commissioner Nelson back into the meeting.

9. Planning Items

A. For possible action and discussion to review and determine and/or confirm the order of alternates selected to represent the Washoe County Planning Commission (PC) on the Truckee Meadows Regional Planning Commission (RPC) in the event the regularly appointed PC members are unavailable to serve. The currently proposed order is as follows: First Alternate, Thomas Bruce; Second Alternate, Kate Nelson; Third Alternate, Larry Peyton; and Fourth Alternate, Pat Phillips. If confirmed and/or determined, to direct the Planning Commission Secretary to transmit the list of confirmed alternates to the Washoe County Board of Commissioners (Board) and to the Executive Director of the Truckee Meadows Regional Planning Agency (TMRPA).

There were no requests for public comment.

Commissioner Donshick moved to confirm the order of alternates to the Regional Planning Commission as follows: Thomas Bruce, Kate Nelson, Larry Peyton, Pat Phillips. Commissioner Donshick further moved to direct the Planning Commission Secretary to transmit the confirmed list of alternates to the Washoe County Board of Commissioners and to the Executive Director of the Truckee Meadows Regional Planning Agency. Commissioner Chvilicek seconded the motion which passed unanimously, with a vote of seven for, none against.

10. Chair and Commission Items

*A. Future agenda items – None

*B. Requests for information from staff – None

11. Director’s and Legal Counsel’s Items

*A. Report on previous Planning Commission items – None

*B. Legal information and updates – None

12. *General Public Comment and Discussion Thereof

With no requests for public comment, Chair Chesney closed the public comment period.

13. Adjournment

With no further business scheduled before the Planning Commission, the meeting adjourned at 8:31 p.m.

Respectfully submitted by Misty Moga, Independent Contractor.

Approved by Commission in session on October 6, 2020

Trevor Lloyd
Secretary to the Planning Commission