

SPECIAL MEETING OF THE SPARKS CITY COUNCIL

August 23, 2006

3:00 p.m.

1.

Call to Order

Time: 6:01:56 p.m.

The special meeting of the Sparks City Council was called to order by Mayor Geno Martini at 6:03 p.m. in the Council Chambers of the Legislative Building, 745 Fourth Street, Sparks, Nevada.

2.

Roll Call

Time: 6:02:01 p.m.

Mayor Geno Martini, City Clerk Debi Dolan, Council Members John Mayer, Phillip Salerno, Judy Moss, Mike Carrigan, Ron Schmitt, City Manager Shaun Carey and Acting City Attorney David Creekman, PRESENT. City Attorney Chet Adams, ABSENT.

Staff Present: Tom Clewell, John Dotson, Steve Driscoll, Pete Etchart, Joyce Farley, George Graham, Dan Marran, Adam Mayberry and David Fitzpatrick.

Invocation and Pledge of Allegiance

Time: 6:02:18 p.m.

The invocation was given by Pastor Brad Dyrness of Sparks First Church of the Nazarene and the Pledge of Allegiance was led by Council Member John Mayer.

Moment of Silence

Time: 6:04:09 p.m.

Council Member Mayer thanked Council Member Moss for being in attendance at this meeting. He noted that her mother just recently passed away and he felt it was gallant of her to attend this meeting tonight. He offered the Council's condolences to Ms. Moss on the passing of her mother and Mayor Martini called for a moment of silence.

Comments from the Public

Time: 6:00:42 p.m.

Mayor Martini asked if there was anyone present who wished to make comments unrelated to any items on the agenda.

Mr. J. Edward Parker commented that he has attended a lot of public meetings and was dismayed at the way the Council listened to the testimony and then seemed to dismiss what was said.

Ms. Shirley Bertschinger asked that this meeting be postponed until arrangements could be made to hold the meeting at a place that could accommodate all the citizens without them having to stand in the hallways and outside. She accused the Council of being discourteous, saying they had plenty of time to arrange for a larger meeting room.

3.

P.H. on PCN05073, Red Hawk Land Company, Amendment to the Tierra del Sol Handbook, Tentative Approval, to Allow for a Resort/Hotel/ Gaming Development

Time: 6:06:55 p.m.

An agenda item from Senior Planner Tim Thompson recommending the City Council conduct a public hearing and deny a request from the Red Hawk Land Company for tentative approval of an amendment to a Planned Development Handbook (Tierra del Sol) to allow for a resort offering entertainment, dining, non-restricted gaming, commercial, a 200 room hotel, and a public facility on a site approximately 57 acres in size in the PD zoning district generally located east of Pyramid Highway and north of Lazy 5 Regional Park.

Council Member Carrigan disclosed that Mr. Carlos Vasquez, a consultant for Red Hawk Land Company, is a personal friend and also his campaign manager. He also disclosed that as a public official he does not stand to reap financial or personal gain or loss as a result of any official action he may take tonight; therefore, according to NRS 281.501, he believed that this disclosure of information is sufficient and that he would be participating in the discussion and vote on this issue.

Mayor Martini disclosed that, although he did not have a vote in this matter, Mr. Vasquez was also a friend of his and his campaign manager and that he did not stand to gain anything from this project, should it be approved.

Mr. Thompson noted that this proposed amendment includes updating the handbook to incorporate the existing development within the Tierra del Sol Planned Development, along with corrected acreages; changing the phasing; administrative corrections; revising the commercial section; and including new designation of resort and public facility. He said that the resort designation would allow for a resort/hotel and other uses associated with this type of use, including non-restricted gaming, which is limited to a maximum area of 18,000 square feet. He said the public facility designation would allow for the construction of a 4,800 square foot public services facility on the site.

Mr. Thompson displayed a map which showed where the project would be located in relationship to the Pyramid Highway and the surrounding adjacent land uses, which is retail, commercial, and business park.

Mr. Thompson said this is a unique situation; to staff's knowledge the City of Sparks has never embarked on anything quite like this before. He then gave a history of the project, stating that in 1994, the City Council adopted a development agreement with Loeb Enterprises to develop Wingfield Springs. Part of that agreement

was an agreement between the City and the developer which included extending infrastructure into the Spanish Springs Valley, including a road network, sewer, and other utilities. Also in that development agreement was a provision that any portion of that entitlement could be moved to another location within the City of Sparks. He said there has been a lot of discussion about the intent [of the agreement] in 1994. He said that as City staff they have looked at the agreement; however, many of the current staff were not employed by the City in 1994 and therefore they cannot speak to what the intent of the agreement was; they simply focused on the plain language of the agreement. He said essentially staff believes the plain language of the agreement is a transfer of development rights.

Mr. Thompson noted that before the meeting he passed out a copy of an e-mail from Senior City Attorney David Creekman which basically defines what a transfer of development right is. He said essentially the entitlement is attached to a certain property or a certain plan and that entitlement is detached from that plan and attached to another location. He said this is what the applicant is asking to do: essentially transfer his entitlement to build a resort in Wingfield Springs to Tierra del Sol. Mr. Thompson said the definition, as Mr. Creekman points out, is somewhat esoteric; however, he felt it did a very good job of explaining exactly what a transfer of development right is.

Mr. Thompson said the 1994 development agreement also locked in place the plans that were in effect at the time the development agreement was adopted; mainly the Tourist Commercial land use designation and the locational criteria associated with that. He said in 1991 the City adopted the NSSOI Plan; that plan, in essence, set forth a vision for Sparks' development into the Spanish Springs Valley and that plan included and always contemplated a single node of Tourist Commercial use, up to 37 acres. He said the maps associated with the plan at that time, some believe, were conceptual and an argument could be made that the maps at that time show that this use would be located in proximity to Wingfield Springs.

Mr. Thompson said the locational criteria of the Tourist Commercial land use designation, at that time, essentially stated that tourist commercial activities, including hotels, casinos and non-restricted gaming uses were appropriate along major arterials: that includes Pyramid Highway and Vista Boulevard, which is why it was originally approved within the Wingfield development.

Mr. Thompson stated there has been a lot of discussion about traffic in Spanish Springs and this project will actually reduce the amount

of traffic. He said this site is already approved for 200,000 square feet of retail commercial uses and those uses generate average daily trips (ADT) in the neighborhood of 8,800 trips. This proposed project actually reduces the estimated amount of traffic down to 7,900 average daily trips. He emphasized that the traffic, with or without this project, is going to be there.

Mr. Thompson said that the NSSOI plan, coupled with the County's plan for Spanish Springs, estimates that there will be in excess of 50,000 residents in the Spanish Springs valley and we are close to being half way to that figure. He said that one of the things that the City has done in recent years was realize that people who live in Spanish Springs need a place to shop in Spanish Springs and they need a place to work in Spanish Springs and staff worked very hard in the 2002 Regional Plan Update to get this area designated as an emergency employment center. He said that a jobs/housing balance is very critical because at 10 ADT per household and 50,000 residents, there will eventually be 250,000 ADT in and out of the valley: people having to go to work and shop outside the valley. He said Vista Boulevard, Sparks Boulevard, Pyramid Highway and Highland Ranch are the only four access points to the south from the Spanish Springs Valley and it is critical that we provide a place for residents in Spanish Springs to shop and work in the valley to help reduce traffic coming to and from the Truckee Meadows.

Mr. Thompson said that this project, in the proposed location, provides a natural buffer, being surrounded on all sides by roadways. He said the applicant has the entitlement to build this project in Wingfield Springs; however the current location of the resort complex in Wingfield Springs has homes constructed on it. But this does not mean that the entitlement is void and a simple handbook amendment to move that use somewhere else within the Wingfield Springs Development could allow this project to be built adjacent to our new Golden Eagle Regional Park facility. The developer is asking to move that entitlement to Tierra del Sol and staff believes that this is an appropriate location for this type of use because putting it along the Pyramid Highway allows for better access for everyone. It also keeps it out of the neighborhoods.

Mr. Thompson said the applicant is also proposing to use a statute from state law that deals with density bonuses. Essentially the statute says that in exercising the powers granted in this section (278.250) the governing body may use any controls related to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning, and minimum density zoning. He noted that the next paragraph goes on to say that density bonus means an

incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the Master Plan in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing. He said that the developer is proposing to construct, at no cost to the City, a 4,800 square foot community services building, as well as donate \$300,000 to the City for Affordable Housing purposes. Mr. Thompson emphasized that the City has not determined how the facility would be used, nor have we determined that the best way to use the donation for affordable housing.

Mr. Thompson said this provision clearly states that the developer could build at a greater density than what would be allowed in the Master Plan; hence a reason why staff has not required a Master Plan amendment in this case.

He said that in the past, as with The Foothills at Wingfield subdivision, when it was developed, it was developed under the NSSOI plan, which set forth land uses and maximum density for the area. When the developer came in, the City said they could change the land uses around, as long as they stayed within the plan area and as long as they didn't increase the density or change the intensity of the plan, the City would not require a Master Plan amendment. Mr. Thompson said the developer came in and moved the land uses around, refined those uses, and created a handbook and that is what you see out at The Foothills at Wingfield Springs today.

Mr. Thompson said the City has also allowed the applicant, several times, to amend the Wingfield Springs handbook to move uses around without requiring a Master Plan amendment as the intensity hasn't changed (increased). He said the applicant is arguing that within the NSSOI plan, it accounted for up to 37 acres of a single node of Tourist Commercial activity and they believe a Master Plan amendment is not required because it doesn't change the integrity of the NSSOI plan; it simply moves the use to, what staff believes, is a more appropriate location.

Mr. Thompson said that at the Planning Commission meeting there was a motion to remove the gaming component from this facility and approve, as such. In staff's opinion this would have changed the intensity and integrity of the plan and increased traffic. He said staff believes that if the gaming component were removed, based on Tourist Commercial land use, that the hotel component would also have to be removed, which would further change the integrity of the

plan being proposed by the applicant. He said that 278A states that a project can be approved, it can be denied, or it can be approved with conditions; however, by removing those uses, none of the three were being met.

He said that at the second meeting staff advised the Planning Commission that if they did not believe that gaming was an appropriate use, then they must remove the hotel component from this project as well; and the Planning Commission should recommend denial of this project based on PD findings 18 and 21, which essentially state that the project is not in conformance with the Master Plan, nor is it in the public interest.

Mr. Thompson said that staff made a recommendation to the Planning Commission for approval; however, in front of the City Council staff represents the Planning Commission and therefore they are recommending denial of this project based on PD findings 1 through 21 as listed in the Planning Commission staff report. He noted that findings 18 and 21 support denial and should the City Council uphold the Planning Commission's decision, staff is asking that they base their denial on PD findings 18 and 21. Mr. Thompson said that should the Council choose to overturn the Planning Commission's recommendation, staff suggests the Council use the PD findings listed in the Planning Commission staff report that support approval of this project.

The Planned Development Findings for PCN05073 are listed as follows:

**PD1 The plan is consistent with the objective of furthering the public health, safety, morals and general welfare by providing for housing of all types and design.**

This is a mixed use project incorporating residential, tourist commercial (entertainment) and general commercial components. The Tierra del Sol development has been developed to date with single family homes at the density at 4 dwelling units per acre which fits into the entire Northern Sparks Sphere of Influence area as a component piece to offer housing of all types and design. The applicant will make a financial contribution towards affordable housing.

**PD2 The plan is consistent with the objective of furthering the public health, safety, morals and general welfare by providing for necessary commercial and industrial facilities conveniently located to the housing.**

This project consists of existing housing and proposed commercial and entertainment uses. The entertainment area within Tierra del

Sol will provide dining and entertainment options plus a proposed movie theater and arcade in close proximity to many existing and proposed homes in the Spanish Springs Valley. It should be noted that both the Wingfield Springs Planned Development handbook and the Wingfield Springs Development Agreement limits the amount of resort related commercial/casino uses to 100,000 square feet. Of the 100,000 square feet only 18,000 square feet can be non restricted gaming of which a maximum of 50% can be slot machine type gaming. Any change exceeding the square footage shall be required to be processed as an amendment to the Development Agreement, requiring public hearings and approval by the Regional Planning Commission and the Sparks City Council. Currently, the applicant proposes approximately 315,000 square feet of total area for the Resort site. Therefore, the non restricted gaming component will be approximately 5.7% of the total overall square footage proposed for the site. The applicant will also provide a community center and contributions to affordable housing.

**PD3 The plan is consistent with the objective of furthering the public health, safety, morals and general welfare by providing for the more efficient use of land and public or private services.**

The plan is designed to provide entertainment and some commercial resources for the surrounding residences in the Spanish Springs Valley which will reduce trips into the Truckee Meadows area.

**PD4 The plan is consistent with the objective of furthering the public health, safety, morals and general welfare by providing for changes in technology of land development so that resulting economies may be available to those in need of homes.**

The proposed Planned Development allows flexibility in development. There are existing homes at 4 du/acre, commercial and entertainment uses proposed as part of this PD. The size of the planned development restricts the ability to provide a wider range of housing types.

**PD5 The plan is consistent with the objective of furthering the public health, safety, morals and general welfare by providing for flexibility of substantive regulations over land development so that proposals for land development are disposed of without undue delay.**

The proposed amendment is to provide commercial and entertainment which is not provided elsewhere in the Spanish Springs Valley. This amendment will not hinder the development of surrounding lands.

**PD6 The plan does not depart from zoning and subdivision regulations otherwise applicable to the property and these departures are in the public interest for density.**

The amendment provides standards that exceed the zoning standards for development with additional landscape requirements, perimeter landscaping, and architectural standards for the buildings.

**PD7 The plan does not depart from zoning and subdivision regulations otherwise applicable to the property and these departures are in the public interest for bulk.**

Due to the property location, adjacent to Pyramid Highway, the site is best suited for high intensity development along the transportation corridor with stepped density to match proposed densities and facilities to the east and south.

**PD8 The plan does not depart from zoning and subdivision regulations otherwise applicable to the property and these departures are in the public interest for use.**

Due to the location of the property, along Pyramid Highway, the mix of uses from higher intensity commercial and medium density residential uses is appropriate. This project will provide entertainment facilities and some commercial resources in the Spanish Springs Valley that would otherwise be unavailable to the residents of the Valley. This will also help to reduce vehicle miles traveled.

**PD9 The ratio of residential to nonresidential use in the planned development is:**

Based on acreage the ratio is: Residential – 51.8% to Nonresidential – 48.2%.

**PD10 Common open space in the planned development exists for what purpose, is located where within the project, and comprises how many acres (or what percentage of the development site taken as a whole).**

The open space is located in the existing residential portion of this planned development with pedestrian corridors and open space areas. Within the resort and commercial area the minimum landscape required is 20% which complies with open space requirements for planned developments.

**PD11 The plan does provide for the maintenance and conservation of the common open space by what method.**

The open space within the Tierra del Sol Planned Unit Development will be maintained by an association to assure consistent and positive maintenance. Two separate associations (one for the

residential area and one for the resort and commercial area) will likely be used.

**PD12 Given the plan's proposed density and type of residential development, the amount and/or purpose of the common open space is determined to be adequate.**

The requirement for open space in a Planned Development is 20%. The residential portion of the Tierra del Sol Planned Development meets or exceeds the requirement for "common open space" such as trails, linear parks, etc. The residential portion provides 6.0± acres or ±22% in common open space. This open space is provided as trail linkages to the Regional Trail System located at the southeastern corner of the property. This meets the requirements set forth by Code. The resort and commercial areas are required to provide at least 20% of the site in landscape area. S.M.C. 20.18.030(C) (4) states: "For non-residential development the common open space requirement can be met by providing a minimum of 20% of the development as landscaped area." The landscaping will include perimeter landscaping and landscaping within the commercial, resort and public facilities areas amounting to a minimum of 20%.

**PD13 The plan does provide for public services. If the plan provides for public services, then these provisions are/are not adequate.**

The Handbook discusses the public services to be provided which include the street network and public facilities. The applicant is also proposing to construct, at no cost to the city, a 4,800 square foot community services building which may be used as a police substation, citizen service center, or for other civic purposes.

**PD14 The plan does provide control over vehicular traffic.**

Primary traffic facilities for this project are the Pyramid Highway, Dolores Drive and Tierra del Sol Parkway. Dolores Drive is identified to be signalized and to be a 4 lane roadway to serve the commercial and resort parcels of the Tierra del Sol PD. These planned improvements will help provide appropriate traffic capacities and control of vehicular traffic with the development of the Tierra del Sol project.

**PD15 The plan does provide for the furtherance of access to light, air, recreation and visual enjoyment.**

The project has been setback from the Pyramid Highway corridor so as to provide better views across the Spanish Springs Valley, eastward from the Highway. The combined benefits from setbacks, architectural theme and landscaping help to meet the requirement of

providing a furtherance of access to light, air, recreation and visual enjoyment.

**PD16 The relationship of the proposed planned development to the neighborhood in which it is proposed to be established is beneficial.**

The Tierra del Sol Planned Development provides a mix of uses with residential, commercial, public facility, and resort commercial uses. The commercial and resort commercial uses will benefit the residents in the Tierra del Sol community as well as those within the communities surrounding Tierra del Sol by providing convenient services and retail establishments. Also, the resort component will provide a benefit to those surrounding the Planned Development area with the entertainment component (restaurants, arcades, movie theaters, spa, etc.). A relatively small gaming component is included and this will meet the needs and desires of those who choose to gamble within the Spanish Springs area.

**PD17 To the extent the plan proposed development over a number of years, the terms and conditions intended to protect the interests of the public, residents and owners of the planned development in the integrity of the plan are sufficient.**

The standards and phasing in the Planned Development Handbook addresses the development to retain the integrity of the plan and defines the responsible parties.

**PD18 The project, as submitted and conditioned, is inconsistent with the City of Sparks Master Plan.**

The Northern Sparks Sphere of Influence Plan (NSSOI), which serves as the Sparks Master Plan for both Tierra del Sol and Wingfield Springs, states that the plan is intended to identify general land uses to guide future development in the planning area (NSSOI pg. 2.199). Further, the plan states that its intent is to provide a mix of uses with an emphasis on master plan developments. The NSSOI clearly contemplated a tourist commercial use since it shows up on Table 1 (37 acres of tourist commercial) and is included as a planned land use (NSSOI pg. 2.205

Running contrary to the above stated intent, however, are the City's graphic representations of land use designations in the City of Sparks as contained in the City's Master Plan map. These graphic representations ideally are consistent with the plan's text. In this case, the text and representations do not match one another. Because of this conflict, the project is inconsistent with the Master Plan when such plan is viewed as a whole.

**PD19 The project is consistent with the surrounding existing land uses.**

The only existing land uses, adjacent to the Tierra del Sol Planned Development are residential to the west (across Pyramid Highway, a State Highway) and Lazy 5 Regional Park to the south. The proposed development pattern of the Tierra del Sol Planned Development locates the residential adjacent to the Lazy 5 Park Site, at the southern end of the project as the residents of the community will be some of the many that will use the adjacent Regional Park facility. Commercial and resort uses are proposed adjacent to Pyramid Highway as an appropriate location from the standpoint of traffic separation with the residential area. Pyramid Highway (carrying nearly 40,000 vehicle trips per day) presents a larger impact on the area than the proposed commercial and resort uses will.

**PD20 Public notice was given and a public hearing held per the requirements of the Sparks Municipal Code.**

Public notice has been distributed. The Planning Commission and City Council meetings function as public hearings for the matter. The Nevada Revised Statutes and Sparks Municipal Code public hearing requirements have been met.

**PD21 Modifications of the Tierra del Sol Planned Development do not further the interest for the city and the residents and do not preserve the integrity of the plan.**

The Tierra del Sol Planned Development provides a mix of uses with residential, commercial, resort, and public facility uses. However, the City's interests are not served due to the conflicts between the Master Plan's land use designations and the project's proposed land uses.

Mayor Martini asked if the Council had any questions for Mr. Thompson. Council Member Carrigan asked the Acting City Attorney David Creekman for a legal opinion on the development agreement and if it was binding to future City Councils. Mr. Creekman said it was the opinion of the City Attorney's Office that the 1994 development agreement, which is specifically authorized by statute and was specifically authorized by statute in 1994 when it was entered into, constitutes a binding contract. He said it is also the opinion of the City Attorney's Office that the development agreement is clear, on its face, and does not require the City Council, or anyone else, to resort to what is called extrinsic evidence in order to interpret it. Mr. Creekman said that further, upon entering into the development agreement, as part of the

Wingfield Springs entitlement, the City agreed to develop or establish for the part of the development agreement transferable development rights, which constitute a valuable property right. He said that going even further, there are general prohibitions in America against what is called contract zoning and these prohibitions exist because they tend to impermissibly limit the discretion of subsequent City Councils. But the law is pretty clear across the nation that development agreements, when they are drafted and reserve some government control over the agreement, do not impermissibly contract away the discretion of subsequent City Councils, but rather constitute a valid present exercise of that power. He said that the discretion that the Council gets to continue to exercise is enumerated or spelled out in Section 7 of the development agreement, which permits the City and the other party to the development agreement to review that agreement on a regular bi-annual basis in order to update the terms and conditions, if either party is inclined to do so.

Council Member Carrigan said because all of us have been inundated with ads, TV spots and letters to the editor, his follow-up question was if this issue goes to court, where does “intent” fall into the issue. Mr. Creekman said intent is only at issue of the Court determines that the language of the development agreement is not clear and if they determine that it is not clear, then they need to go to, what is commonly referred to as, intrinsic (outside evidence) in order to ascertain what the intent of the parties was. He said that again, from the City Attorney’s perspective, the language from the 1994 development agreement is clear. He said if this were a statute or city ordinance that we were interpreting, and assuming that it were unclear, the position or the statement of former legislators who had a role in enacting the statute, which he has successfully argued in the past, is irrelevant.

Council Member Carrigan asked for clarification that when staff brought this application before the Planning Commission their recommendation was for approval and the reason staff is now recommending denial is because the Planning Commission denied the application. Mr. Thompson confirmed that this was correct and Community Development Director Neil Krutz added that this is the process that staff is required to follow and staff is here tonight representing the Planning Commission and the decision they made.

Council Member Schmitt asked if there was anything different in the staff report tonight, from what was presented to the Planning Commission, other than the changes made to reflect the decision of the Planning Commission. Mr. Krutz said that both reports are the same, with the exception of the addition of the report of action from

the two Planning Commission meetings.

Council Member Schmitt asked if staff had any legislative history of why the State of Nevada decided that density bonuses were important and what connection does it have to this project; or are we even concerned with density bonuses right now. Mr. Creekman said the foundational requirement in any zoning change is that the City Council believes that the proposed zoning is consistent with the Master Plan. There have been many arguments lodged about the believed inconsistency of this project with the City's Master Plan; however when you look at the statute which imposes that obligation on us, it provides an exception to the generally applicable rule that a zoning change be consistent with the Master Plan and that exception is found in the density bonus chapter. He said it provides the legislative body, in this case the Sparks City Council, with the discretion to determine what might be a socially desirable project that the developer could contribute to the City in exchange for the strictest of compliance with the Master Plan. Mr. Creekman said the staff's original recommendation and belief is that the project is consistent with the Master Plan, but they have gone a step further and said that to the extent that there is a possible argument out there that there is an inconsistency with the Master Plan, let's exercise our prerogative under that statute to make use of the density bonus provisions so that we are certain that we have covered ourselves, in a legal sense, with respect to this action. He said the Planning Commission did not agree with this argument and for that reason staff is bringing forward the Planning Commissions recommendation tonight. Council Member Schmitt asked for clarification that the density bonus does not have to be part of this package and that the project conforms to the Master Plan. Mr. Creekman confirmed that it does not have to be, but the density bonus provision was included as an extra element of protection for what was originally brought forward by staff as a recommendation of approval.

Council Member Salerno asked how long an entitlement was valid. Mr. Krutz said that in this case it goes back to the development agreement and there was a term in the agreement that is out several years from where we are today, so we are still within the life of that agreement and the entitlement that was granted in 1994; however not all entitlements are like this. Mr. Thompson clarified that the development agreement that was adopted in 1994 is valid until 2020 or 2021.

Mr. Carlos Vasquez, representing Red Hawk Land Development, the Peppermill, and Mr. Harvey Whittemore, introduced himself and explained that he would be speaking on some of the issues of why

they want to move this project and some of the legal issues; Mr. David Snellgrove of Wood Rogers would be speaking about some of the planning and road use issues; Mr. Steve Mollath and Mr. Whittemore will then address the actual legal issues regarding moving the project and the development handbook; and then they would answer any questions the Council might have from the team.

Mr. Vasquez said one of the things he wanted to address, and something they have been asked a lot, is, "Why move it; you already have an entitlement in Wingfield, why not build it in Wingfield." He said the reason they are not building it in Wingfield is because it is a good business decision and it is also good planning: Wingfield is obviously a far more established neighborhood than where they are trying to go. He said back in 1994, Wingfield was out in the middle of nowhere... it was a different time and Sparks did not have the giant explosion it is having today and the City was trying to spur development and back then this was a risky project. However, today things have changed and the decision to move it to Tierra del Sol is based, primarily, on that change. He indicated a graphic on display and noted that the blue was Tierra del Sol and the yellow was approved commercial along the Pyramid Highway, which arguably has a much greater capacity for traffic than Vista Boulevard does, as it is currently configured. He discussed the potential square footage of commercial uses currently approved along the Pyramid corridor and noted that the actual square footage of the proposed gaming floor (18,000) was less than 3/10ths of 1 percent of the total commercial use area approved to be built today.

Mr. Vasquez then provided a breakdown of the proposed uses of the Tierra del Sol project and noted that only 6% of the project is gaming floor. He emphasized that this project has been designed as an entertainment complex and they feel that this mix brings needed services to that area.

Mr. Vasquez then address a letter that the opposition has circulated to the community related to 12 issues that they felt were negatives to this project. He said in an effort to cut down the time of their presentation, they chose four of these issues to address because they are outside of the germane planning and legal issues. He said that the first issue is that thousands of concerned citizens have signed a petition against the project, as well as the community Ad-Hoc Board. Mr. Vasquez said it was reported that 4,800 people signed this petition and they have been told that 1,100 of them are Sparks' residents and the rest are County residents. He said based on the current population of Sparks of 87,500 people, this is just under 1% of the actual population of the City.

The second issue he addressed was that the proximity of a casino to residential property decreases the value of the property. He said the reality is that this is unsubstantiated and there has been study after study on this issue and no one has been able to prove this. He said that generally when there is commercial development, the property values dips slightly in the short term and then it goes back to a natural growth pattern which matches all the surrounding areas.

The third issue was that casinos on the Pyramid Highway will take away from the millions of dollars that have been invested to attract people to the downtown corridor. Mr. Vasquez said that with the original approval of the tourist commercial use in the NSSOI, the Regional Planning Commission made a finding that the proposed resort/casino would not threaten downtown Reno or Sparks casino interests. Additionally, the Regional Planning Commission said that a ceiling as to the size of a non-downtown casino at 20,000 square feet, further defining this as a limited resort gaming. He said the reason they did this was to protect existing gaming.

He said another issue he wanted to address, briefly, is the issue of casinos belonging in downtown and why didn't they put the casino in Victorian Square. Mr. Vasquez said this Council has already approved Phase I and Phase II of the Victorian Square Redevelopment Plan and with the other parcels of land owned by other gaming interests, there is no way that a gaming project will fit in the downtown area.

Mr. Vasquez said the final issue was that traffic issues including drunk driving and congestion, will increase if this project is allowed to move forward. He said the Peppermill, who will be operator of this property, and all formal casino projects, have policies in place to help regulate and control the gaming/bar/restaurant environment, including the consumption of alcohol. He said that surveillance of parking lot areas and property grounds will be performed by private security patrols 24 hours a day, 7 days a week. Gaming properties have on-site security and they also have an enormous amount of over site from gaming control and therefore they don't have the ability, like a neighborhood bar would, to allow people to come and go as freely as they would in a non-regulated environment. He described the current security parameters at the Peppermill casino and emphasized that they have learned what works with their other casino and they plan to incorporate those factors into the security for the Lazy 8.

Mr. Vasquez said the Lazy 8 obviously will have an enormous amount of fiscal impact on the City of Sparks and he then discussed the expected revenues versus the cost to the City to provide services

to this facility.

Mr. Vasquez then provided a verbal history of this development by reviewing a timeline (and backup materials) which they had provided to the Council.

Mr. Dave Snellgrove with Wood Rogers Consultants, reviewed the traffic issues, noting that a lot of the local casinos are on State Routes and the reason for this is because the heaviest carrying capacity is on these roads. He pointed out that locating the Tierra del Sol project on the Pyramid Highway makes better locational sense than putting it out on Vista Boulevard. He also discussed the projected average daily trips this project will generate versus the carrying capacity of the Pyramid Highway and the locational criteria for access to the project.

Mr. Vasquez then reviewed what they felt were some of the benefits of the project, including: reduced vehicle motor traffic through provision of varied services in Spanish Springs Valley; lower trip generation than the approved PUD; better roadway facility to carry the traffic; north central location for restaurants and the movie theater; provides hotel accommodations in an area where none are provided; provides a public facility; a density bonus to the City for affordable housing; tax revenue generated by the resort; creates a synergy to support uses that are delayed in typical land patterns.

Mr. Vasquez concluded the ultimate issue is the agreement. He said the development agreement in 1994 was a big risk for the developer and exchange he was granted certain things under the agreement to make the development worthwhile. He said the agreement outlined exactly what the developer could expect down the road and while a lot of time has passed since then, the agreement is still, and should be, just as binding today as it was then.

Mr. Steve Mollath, an attorney representing the Red Hawk Land Company, the Lazy 8 Ranch and the Peppermill in the area of land use development, asked the Council to recognize that we are not talking about neighborhood casino issue, but that they were here to establish a transfer of a use from Wingfield Springs under an October 1, 2004 request, pursuant to a development agreement under Section 308B, to move an entitlement from the Wingfield property to the Tierra del Sol site. He then discussed the development agreement, stating that a development agreement is something that the Nevada legislature saw fit to put into place under chapter 278 that allowed developers who are going to come to Cities and to afford Cities who want to establish growth patterns and benefits for the community to come together on an agreement and

contract so everyone knows how the development will take place over the period of time of the development agreement. He said this is not new or magical, but something the legislature has had in place for many years. Mr. Mollath emphasized that a development agreement is the same as a contract and that the development agreement of December, 1994 specifically allows this transfer. He said they believe that the movement of this project from Wingfield Springs location over to the Pyramid Highway is a better fit under the Master Plan and that the placement of this use on this particular piece of property is in the public interest of this community; however, the Planning Commission found that this project did not comply with the Master Plan and that it was not in the public interest to allow this project to go forward.

Mr. Mollath said he felt the only reason they were having a problem with this development was because this opposition had been planned and orchestrated by John Asquaga's Nugget, whose sole purpose is to prevent competition to its business. He said they were told there was no problem with a casino on the Pyramid Highway as long as it has 200 rooms, so they did that and then the rules of the game, as dictated by the Nugget, were changed and now they are saying the development agreement is invalid; the locational criteria is incorrect; and that they should go back 12 years and undo the agreement. He said basically the Nugget is asking the City of Sparks to breach this contract and assume all the adverse financial consequences of a breach of this contract after 12 years.

Mr. Mollath said that under ordinary circumstances, on a discretionary type of approval, the Council would take the input and weight it in their discretion; however, in this case there is a development agreement and that agreement requires both the developer and the City of Sparks to live up to the terms of the contract. He then discussed what would happen if the Council denied the application and what would happen if they approved the project. He emphasized that should the Council deny the project, then the developer must, in order to protect the financial investment he has made over the past 12 years, sue the City to enforce the provisions of the development agreement, which would have a huge financial impact on the City of Sparks.

Council Member Carrigan explained that the City has a lot of development agreements and this one is about 20 pages long and it is probably the easiest one he has read. He said to put it into perspective; we just signed a 113 page development agreement with 25 addendums for the RED project at the Marina. He said that had he been on the Council back then, he was not sure he would have signed that agreement, but those were different times. Council

Member Carrigan said that in looking at Section 7, which talks about what happens if the City backs out of this agreement, or if the applicant backs out of the agreement, he wanted to ask what number the City would be looking at if this went to court. Mr. Mollath said this could be a \$100 million, plus cost to the City, because this is a very valuable entitlement. Mr. Harvey Whittemore said that they have had an analysis done which shows that the exposure could be as high, over a period of years, approaching \$300 to \$400 million dollars, but the bottom line is that this is a hugely important aspect of the entire development, because this development was unique because it was “front end” loaded, because the developer made it clear he was willing to incur that risk as long as he was going to be able to use 100% of the development rights, including the casino.

Mr. Whittemore said he wanted to make it very clear that they did not want to sue the City of Sparks; they want to enforce the existing agreement the way that it is.

Council Member Schmitt said there were a couple of comments made and he wanted to make sure that the City Attorney agreed with them. One was that if the project is approved, and someone files a law suit, then the applicant bears all court costs. Attorney Creekman said that in past experience, if a law suite is filed against the City, always, the real party in interest is invited to participate. Sometimes they choose not to and they allow the City Attorney’s Office to “carry the flag” on their behalf. He said based on what Mr. Mollath has stated, he sincerely doubted that this would happen in this case, so from that perspective he would anticipate that Mr. Mollath would be very active in the defense of the City and the City Council’s action, thereby bearing the preponderance of the cost, although there would be costs to the City. Mr. Whittemore said that the City would enter into a joint defense agreement and 100% of the cost would be borne by the real party of interest, Red Hawk Land Company. He said he wanted to make it clear that they would not let the City suffer any financial loss with respect to defending this project. To supplement what Mr. Whittemore said, City Attorney Creekman said this offer was made to the City Attorney and the City Attorney rejected the offer during early discussions under the belief that it was inappropriate before there was an actual decision. Council Member Schmitt said he wanted assurance that there were no written agreements as to who was going to participate financially. Mr. Creekman assured the Council that there were no verbal or written agreements; and, in fact, it is precisely contrary: there was a verbal representation made which was expressly and explicitly rejected by the City Attorney.

Council Member Schmitt said he received a phone call regarding this issue, in that we don't have to worry as a City Council with a denial, that our insurance company would pay any costs. He asked if Mr. Creekman could verify that our policy covers the City Council in terms of a decision like this and what the limitations would be. Mr. Creekman said he could not provide an answer because he was not familiar with the precise terms of the policy; however he could say that to the extent the matter is covered by our insurance policy, insurers base the premiums we will be paying in subsequent years on what they have had to pay out and he also concurs with Mr. Mollath's representation that the City's bond rating will likely suffer, having a tendency to make future projects more expensive for the City. Council Member Schmitt asked if staff could research this question and give him an answer later in the meeting.

Mr. Harvey Whittemore said this process has been extraordinarily difficult for a wide variety of people. He said he has been involved in the legislative process and planning and zoning issues all his professional life and he has never seen one that has resulted in the type of animosity, personal name calling, and the barrage of threats aimed at himself and his family. He said this project starts well before the early 1990's, as a result of his representation of a company called Howard Hughes in a project called Hughsight, which is now Summerland in Southern Nevada. As a result of their desire to enter into a major proposed development of over 250,000 people, they said that before we go through the process of developing a community of that size in the Las Vegas area, we are going to need some assurance that we are going to be able to build what we are going to be allowed to build. As a result of that, development agreement statutes were passed in the State of Nevada.

Mr. Whittemore explained how he became involved in the Wingfield Springs project and the history of what occurred during the creation of the development agreement. He emphasized that the agreement clearly states that they can move development rights outside of the Wingfield Springs PC, but within the City. Mr. Whittemore then talked further about the development agreement and he was adamant about their right to build the casino at the Tierra del Sol location. He also mentioned that he would not benefit from the profits of the casino, but that they would go, in part, to fund UNR, disease research, and other charities.

Assistant City Manager Steve Driscoll said he had a response to Council Member Schmitt's earlier question regarding the City's insurance. He said that in our general liability insurance policies, there is a deductible on everything that goes through it, of \$300,000,

so this would be the City's responsibility. He said they would have to research the particulars of this question as to whether we would be covered as far as anything in excess, but typically breaches that deal with these types of contract breaks would not be covered because they are typically excluded because they are large dollar amounts. He said this would have to be confirmed, but there is a good chance that if there was a breach and the City was determined to be at fault and there was a large dollar amount, the entire amount would have to be carried by the City.

Council Member Schmitt said his concern has been the legal aspects of the issue and the City Attorney's office has gone on record as saying that the development agreement is legal, and he felt it was important for the Council to understand what liabilities fall back on the City Council at this point.

Mayor Martini said he would open the floor to public comments, indicating several stacks of comment cards, he stated that one stack was from those that wanted to speak; another stack was those that did not want to speak, but wanted to show their opposition or support for the issue. He noted that everyone was allowed three minutes, but they did not have to speak the entire three minutes. He also asked that the speakers that planned to not belabor the points already made. He also asked the audience to be professional; to take into consideration other people's feelings; and not to make any personal attacks, on either the applicants or the Council Members. He then opened the public hearing.

Council Member Carrigan asked each speaker to let them know if they were a City of Sparks resident, or if they were a resident of the unincorporated Washoe County area.

The following individuals spoke in opposition to the project:

Lynne Collins, 45 Desertscape Court.

Sharon Stumpf, 1673 Sue Way.

Cindi Henderson, 3074 Diamond Dust Court (former Council Member in 1994). She asked that their letter to the newspaper be made a part of the record and that she was not speaking for or against the project; she just wanted to clarify some of the intent behind what happened in 1994.

Vaughn Hartung, 200 E. Sky Ranch Boulevard.

Cathy Reiners, 288 Omni Drive.

Beth Cooney, 2871 Brillie Dove Court, representing the Nugget, raised the issue of future casino expansions once the use is established.

Larry Harvey, 2245 Frisco Way.

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Michonne Ascuaga, 1100 Nugget Avenue, CEO of John Ascuaga's Nugget.

P. Sue Henderson, 5346 Santa Barbara Avenue.

John J. O'Leary, 1028 Sticklebrook Drive.

John K. Bradbery, 134 Andalucia Court.

Tom Flaherty, 7460 Adelaide Court.

Ted Krembs, 7440 Livi Court.

Malcolm Hall, former employee of Centex.

B. James Martin, 3269 Valley Forge Way.

Jim deProse, 7390 Island Queen Drive.

Doug Flowers, 5441 Kietzke Lane, 2<sup>nd</sup> Floor, Reno.

Herman Stewart, 155 Stags Leap Circle.

Vernie McCrowhan, 309 Shelby Drive.

Roger White, 635 Valle Verde.

Melissa Clement, 3785 Erin Drive.

Joyce Field, 50 Harrison Pc.

Thomas Hullin, 2315 Contrail Street.

Mark Moser, 2720 Bankhurst Court.

Deborah Banks, 2541 Garfield Drive.

Jan McGinty, 55 E. Sky Ranch Boulevard.

Ira Hansen, 6500 Spanish Springs Road.

Roy Adams, 5655 Grasswood Drive.

Shirley Bertschinger, 832 Olanca Court.

Dee Parks, 15 N. Patterson Place.

Edes Hill, 2310 Adana Court.

Steven Peek, 1194 Mayflower Drive, Reno, an attorney representing the Nugget.

Marian Webb, 9435 Benedict Drive.

Jamie Singer, 715 Emerson Way.

J. Edward Parker, 6970 Pah Rah Drive.

Jim Robbins, 5245 Santa Rosa Avenue.

Viji M. Cox, 3755 Erin Court.

Beverly Johnson, 1358 Lubin Drive.

Rhonda Smithson, 245 Monumental Circle.

Neal Smithson, 245 Monumental Circle.

The following individuals spoke in support of the project:

Ruby H. Anderson, 250 Veronica Avenue, (Washoe Co.)

Robert Derck, 6390 Black Deer Court.

Stacey Derck, 6390 Black Deer Court.

Terry Reynolds, 7473 General Thatcher (former City Manager) spoke to the validity of the intent of the development agreement.

Mike Hillerby, 914 Dolce Drive.

Lyle Mason, 7066 Poco Bueno Circle.

Heidi Loeb, 7495 Silver King Drive.

Natalie Okeson, 5949 Solstice Drive.

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Karen Davis, 4580 Sillan Court.  
Andrea Whittemore, 24660 Burtin Drive.  
Don Lally, 5700 Falcon Ridge Court.  
David Anderson, 6413 Adobe Springs Court.  
Nicole Fontana, 7375 La Costa Street.  
Tim Trimble, 2195 Rundy Way.  
Pat Flynn, Sparks, representing the Peppermill.  
Kim Stoll, 2707 S. Virginia Street, Reno, representing the Peppermill  
Skylo Dangler, 5929 Solstice Drive, representing Wingfield Springs.  
Martin Amba, 4711 Paso Robles Court.  
Marc Johnson, 2460 Burtin Drive.

The following individuals were present in opposition, but did not wish to speak:

David West, 1205 Stanford.  
Corwin West, 4716 Pradera Court.  
Nick & Lorrie Turner, 5690 Dolores Drive.  
John L. Sullivan, 85 E. Sky Ranch Boulevard.  
Debra Kallas, 30 N. Desert Springs Circle.  
Kathryn Trabitz, 4333 Bareback Court.  
Elizaveta Rechetnik, 7380 Aquene Drive.  
Nettie Hansen, 2105 Madera Court.  
Adrian Eriksen, 235 Sunset Springs.  
Jonathan Conley, 1507 G Street.  
Michele Salonek, 1592 Satellite.  
Danielle Donica, 25 N. Tropicana Circle.  
Chris Donica, 25 N. Tropicana Circle.  
Herbert Blanck, 6986 Poco Bueno Circle.  
Olga Blanck, 6986 Poco Bueno Circle.  
Philip Daly, 328 Quini Drive.  
Thomas Jones, 5260 Mesa Verde Drive.  
Michael Oltman, 1215 Turnberry Drive.  
Melissa Taveria, 5540 Dolores Drive.  
Karen Nance, 140 Landmark Drive.  
Lawana Carter, 1506 Palmwood Drive.  
Tom Comstock, 4475 Block Diamond Drive.  
Ted Johnson, 1011 Sageview Drive.  
Chris Johnson, 1011 Sageview Drive.  
Lyly Gelles, 8865 Eaglenest Road.  
William H. Kip, 3357 Toledo Court.  
Vicki Pillers, 5515 Grasswood.  
Tamara Root, 2323 Soar Drive  
Gregory Root, 2323 Soar Drive.  
Bruce Root, 417 "H" Street.

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Judy Root, 417 "H" Street.  
Thomas L. Nickovich, 69 Palm Springs Court.  
Tyson Andehr, 8100 Pyramid Highway.  
Donna Hunter, 248 Prater Way.  
Pablo and Diane Aguirre, 449 Gomez Court.  
Mark Andiline, 8100 Pyramid Road.  
Susan Roberts, 3225 Apio Court.  
Carrie Wiker, 3347 Poco Dove Court.  
Barandon Allen, 3240 Millstone Court.  
Doug Stafford, 5565 Grasswood Drive.  
Dawn Johansen, 330 Moonbeam Drive.  
Shonda Williams, 9140 Benedict Drive.  
Chris Obringer, 11075 Heartpine Street.  
Lynn Vind, 345 Moonbeam Drive.  
JoAnne Sunstrom, 335 Moonbeam Drive.  
John Johansen, 330 Moonbeam Drive.  
Karl E. Rodriguez, 365 Moonbeam Drive.  
Nicolas Ruiz, 1924 Woodtrail Drive.  
Jacob Singer, 715 Emerson Way.  
Anita Phillips, 1140 Fuggles Drive.  
Beth Lau, 4964 Hangarten Drive.  
A. Lewis, 150 El Molina Drive.  
Truman Mathews, 1072 Greenwing Drive.  
Debbie Trambetta, 4891 Monte Rio Court  
Chase Whittemore, 2215 Hedgewood Drive.  
Proctor Hug, 2260 Hedgewood Drive.  
Ron Gribble, 6399, Toronto Court.  
Joyce Eriksen, 235 Sunset Springs.  
Connie Nevins, 175 Carlene Drive.  
Cassandra and ian Griere, 465 Tranquil Drive.  
Dave Galleron, 635 Calle de la Plata.  
Steven Thoma, 55 E. Sky Ranch Blvd.  
Janean and Lynn Peterson, 906 Victorian Avenue.  
Lillian Partos, 7874 Tormes Court.  
Gerald Fassett, 40 N. Tropicana Circle.  
Bonita and Robert Curtis, 30 N. Spring Mountain Circle.  
Sarah Mahler, 340 Moonbeam Drive.  
David W. Walker, 35 Geraldine Court.  
Cheryl Benson.  
G. Malcolm and Cindy Hall, 3775 Erin Drive.  
Ralph A. and Wanda R. Prukop, 4985 Santa Barbara Avenue.  
Michael Dillon, 65 E. Sky Ranch Blvd.  
Jeanne Mullennix, 40 White Dove Court.  
Chuck Clement, 3785 Erin Drive.  
Jennifer O'Neil, 4325 Primavera Avenue.  
Cindy Duer, 60 Carneros Drive  
Ken Mendenhall, 1075 Rheingold Court.

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Cindy Kimball, 5565 Wedgewood Circle.  
Ken Nevias, 175 Carlene.  
Dennis Galleron, 240 Sunlit Terrace.  
Roy Hall, 11765 Canyon Dawn Drive.  
Trudy Trainor, 810 Leport Way.  
Sandra Randall, 3430 Terishile Drive.  
LaFern Mears, 6610 David James Blvd.  
Wanda Little, 15 Valerie Circle.  
Daisy Genio, 7455 Aftspring Drive.  
Davis Moore, 3350 Grove Springs Drive.  
Maria Rodriguez, 365 Moonbeam Drive.  
Vance Antonelli, 700 C Street.  
Frank Gonzales, 35 Alexis Court.  
Russell Pillers, 5515 Grasswood.  
Scott Franzwa, 240 Nicole Drive.  
Diana Exline, 6805 Eagle Wing.  
Donald and Robin Diehl, 91 Ringneck Court.  
Dennis L. Moore, 3350 Grove Springs Drive.  
Susan Sunday, 5650 Grasswood Drive.  
Steve Witt, 315 Tina Circle.  
Duane Brown, 150 Rosetta Stone Drive.  
Linda Joeline Jamieson, 8036 Miramar Court.  
Leopolda R. Barajos, 1877 El Rancho Drive, apt. 54.  
Barbara Matlock, 2525 Westview Boulevard.  
Shirley O'Leary, 1028 Sticklebract Drive.  
Shannon Waldrop, 3631 Longridge Drive.  
Jean N. Lewis, 1012 Bradley Square.  
Elva Wells, 478 Steffain.  
Jerri Eby, 1184 Jason Drive.  
Chris Gann, 90 May Drive.  
Bert Love, 155 Veronica Avenue.  
Jerri McDonald, 5565 Grasswood Drive.  
Kathy Maclosek, 510 Hawk Bay Court  
Rendell and Linda Banks, 2525 Westview Boulevard.  
Jeannie Adams, 5655 Grasswood Drive  
Suly King, 2525 Westview Boulevard.  
H. Lawrence Fick, 1156 Dortmundeh Drive.  
Dawn C. Hammond, 7436 Ash Peak Drive.  
Paul byers, 35 W. Sky Ranch Boulevard.  
Debbie Barriault, 620 H Street.  
Luella and Frank Hill, 4765 Goodwin Road.  
Bobbie Barriault, 620 H Street.  
LeNora Greenen, P.O. Box 743.  
Cherri Fennel, 1503 G Street.  
Lydia Gomez, 1503 G Street  
Leticia Miller, 7808 Bareback Drive.  
Joy L. Harrison, 3251 Millstone Court.

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Terry Maine, 701 Canyon.  
Zac Cooper-Chadwick, 3140 Manzana Court.  
Rodolfo Velaseo, 3146 Montezuma Way.  
Barbara Heimerdinger, 2326 Ruddy Way.  
Jamie Huff, 5396 Santa Lupe.  
Bob Bertschinger, 832 Olanca Court.  
Joy and William Naprstek, 4373 Bareback Court.  
C.G. Cox, 3755 Erin Court.  
David J. and Nancy Cencula, 9145 Cordoba Boulevard.  
Sandy Richardson, 20 Bridle Path Court.  
Joe Lopez, 20 Bridle Path Court.  
Eleanore S. Collier, 49 Marilyn Mae.  
Irene Connors, 2326 Abacus Court.  
Wilma Bennett, 3683 MacArthur.  
S. Herr, 316 California Avenue #878.  
Marci Howser, 1680 Talking Sparrow Drive.  
Randy Connors, 2326 Abacus Court.  
Donna Green, 1800 Prater Way, #C6.  
Joyce E. and John Baird, 4650 Sierra Madre Drive #813, Reno, 89502.  
Pamela Riede, 625 Tranquil Drive.  
Rita S. Kahl, 7828 Cangdejo Court.  
Glenda Jacobson, 7455 Lorna Lane.  
Barb Bauane, 7282 Little Casy Street.  
Valerie Jakubos, 55 Valerie Circle.  
Wayne P. Fitch, 45 Anthreka Court.  
Jennifer Bascom, 2105 Stone View Drive.  
Steven Asquaga, 1100 Nugget Avenue.  
Dennis McCrohan, 309 Shelby Drive.  
Ann Reiff, 5100 Wilcox Ranch Road.  
Jacob C. Glass, 665 Tranquil Drive.  
Valdine Renucci, 5213 Palo Alto.  
Eugene L. Trabit, 4333 Bareback Court.  
Marion R. Slay, 2594 Betsy Street.  
Adam Bass, 4861 Monte Rio Court.  
Carolyn N. Snow, 1456 Arona Drive.  
Hardy Mullennix, 40 White Dove Court.  
Michael Wessman, 237 Sunset Springs.  
Paul Ortiz, 80 Saint Lawrence, Reno, 89509.  
Miguel Villegus, 828 Woodglen Drive #5.  
Dorothea Combs, 620 19<sup>th</sup> Street.  
Dell Vargas Gomez, 6840 Prestwich Circle.  
Lynette Holsey 6645 David James Boulevard.  
Melina R. Rourke, 2780 Arrowsmith Drive.  
Larry and Debbie Leukhardt, 7060 Annabelle Drive.  
Traci Allen, 3240 Millstone Court.  
Patricia Swain, 15 Desert Springs Circle.

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Carolyn Lindsay, 15 S. Heena Court.  
Thomas Jamieson, 8036 Miramar Court.  
Teresa J. Rodriguez, 270 Veronica Avenue.  
Fred Horlacher, 1395 Nightingale Way.  
Ken Robbins, 815 Olanca Court.  
Nina Hogan, 9220 Cordoba Boulevard.  
Susan Weyl, 2230 Piedras Road.  
Virginia Loessberg, 280 Veronica Avenue.  
Pedro Rodrigez, 270 Veronica Avenue.  
Donna and Eugene Whelchel, 325 Alamosa Drive  
Olivia Bouch, 70 Horse Springs.  
Emily Robbins, 816 Olanca Court.  
Jesse and Paul Danen, 7889 Guerra Court.  
Karla M. Rollins, 1100 15<sup>th</sup> Street #7C.  
Janae and David Maher, 5635 Grasswood Drive.  
John G. and Carolyn L. Williams, 220 Mystic Mountain Drive.  
James Daria Wallace, 7808 Covered Wagon Court.  
Sheryl and William Sherman, 6969 Jermann Court.  
Kyle Labarry, 4344 Roundstone Court.  
Angela and Andrew Morss, 329 Shelby Drive.  
Harold Roberts, 3225 Apio Court.  
Amy Obringer, 11075 Heartpine Street.  
Patricia Buffington, 55 Carneros Drive.  
Tim and Dawn Hunter, 79 Cadwall Court.  
Linda and Norman West, 4716 Pradera Court.  
Judy Harper, 3773 Arcturas Court.  
Lourita Parker, 290 Omni Drive.  
Linda Williams, 2230 Piedras Road.  
Margaret McCarran, 1558 C Street.  
Robert Gennette, 12 Lincoln Way.  
Rose Marie Donohue, 4353 Bareback Court.  
Desley Stafford, 5585 Grasswood Drive.  
Mike Maciosek, 510 Hawk Bay Court.  
Karl Kononchuk, 575 Tranquil Drive.  
Mary Burlie, 4330 Bareback Court.  
Maria Campos, 51 Badger Creek Court.  
Melinda Campos, 51 Badger Creek Court.  
Jess Campos, 51 Badger Creek Court.  
Rusty Flowers, 51 Badger Creek Court.  
Ray Duer, 60 Carneros.  
Ouida W. Craddock, 675 Parlanti Lane #139.  
Alice B. Yoakam, 675 Parlanti Lane #139.  
Rose Baker, 15 Mac Street.  
Steve Burlie, 4330 Bareback Court.  
Leslie O'Day, 3430 Grove Springs Drive.  
Harriet R. Duran, 148 Andalucia Court.  
Nancy Trabert, 1755 Trabert Way.

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Robin Helweg, 144 Andalucia.  
Ann foley, 1610 Billow Drive.

The following individuals were present in support, but did not wish to speak:

Rand E. Tanner, 7052 Cinnamon Drive.  
Shen Hui, 5625 Vista Luna #103.  
Niu Su Rong, 5625 Vista Luna.  
Shen Hong Cheng, 5635 Vista Luna.  
Shen Li, 5635 Vista Luna.  
Jenny Shen, 5625 Vista Luna #103.  
Mei Hu, 5725 Camino Verde Drive.  
Andrew Briswalter, 5725 Camino Verde Drive.  
Marita Pinedo Rodriguez, 185 E. 1<sup>st</sup> Avenue, Sun Valley.  
Baldo Vargas 2159 Albatross Way.  
Jenny Wilson, 6060 Ingleston Drive #1221.  
Yvette Deighton, 10 Carefree.  
Annette Whittemore, 2215 Hedgewood Drive.  
Mike Wilson, 5300 Los Altos Parkway #183.  
Beth Wilson, 5300 Los Altos Parkway #183.  
R. Whittemore, 7019 Whitemare.  
Janet DiGiulio, 6578 Aston Circle.  
Trevor Lloyd, 4161 Mystery Drive.  
Benedict DiGiulio, 6578 Aston Circle.  
Emily Cornwall, 5791 Ambush Ridge Court.  
David E. Snow, 1459 Aron Drive.  
Diane Dwyer, 2501 Garfield Court.  
Charles R. Carpenter, 1107 Bradley Square.  
Cathy Dangler, 5929 Solstice Drive.  
Ryan Marsh, 2851 Chavez Drive.  
Robert Coclich, P.O. Box 366, Sparks, 89432.  
Lynda Murdock, 2420 Burtin Drive.  
Earl J. and Dorris Crank, 23 Marilyn Mae Drive.  
Christia Ahl, 1800 Sullivan Lane.  
Rovalea Sauth, 1365 Russell Way.  
Stephanie Kolko, 2876 Granville Drive.  
Heidi Robbins, 5246 Canyon Rim Court.  
Greg Andrew, 1426 Talon Drive.  
Fred Harvey, 1391 Satellite Drive.  
Cari West, 2417 Lawry Drive.  
Clay Meininger, 6060 Ingleston Drive #122.  
Daze Rew, 5998 Solstice Drive.  
Dave Richardson, 6804 Cinnamon Drive.  
Tom Steinberg, 54 Marilyn Mae Drive.  
Nate Kaplan, 3275 Cashill Boulevard.  
Carl Savely, 305 Alamosa Drive.

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Debi Bladis, 10295 Mogul.  
Ray and Nicole Fontana, 7375 LaCosta Street.  
Mernie Irwin, 342 Jimmy Court.  
Sherry Irwin, 342 Jimmy Court.  
Dave and Bonnie Carsten, 1060 Mercedes Drive.  
Garry Hill-Thomas, 565 Sparks Blvd.  
James Wiggins, 565 Sparks Blvd.  
Sean Paul, 1364 Buena Vista Avenue.  
Maggie and Brandon Kingsbury, 3657 Hillsdale Court.  
Al Karsuk, 5909 Solstice.  
Roxanne and Mickey Doyle, 2390 Mammatus Drive.  
Jerry and Kellen Monick, 3240 Dunbar Court.  
Ann and Jim Fowler, 3662 Copernicus Court.  
Rosa Torres, 4695 Aster Drive.  
Remedios Guerrero, 185 Hubbard Way #B.  
Maricela Villasener, 4760 Persimmon Road.  
Herberto Moya, 350 E. Grove, Reno.  
Bert and Andrea Soffiotto, 5935 Ingleston Drive.  
Carmen and Molve Johnson, 8955 Spanish Trail.  
Tim Trimble, 2195 Ruddy Way.  
Jack Chesney, 20 Chesney Court.  
Naoma, Cliff J., and Howard Luzier, 6643 Dorchester Drive.  
Kathleen Boyer, 1973 Rio Tinto.  
Ursula Wellman, 2000 Bucky.  
Drucilla Richardson, 2005 Haywood Drive.  
Ronald and Mandy Robbins, 5240 Canyon Rim Court.  
William Brainard, 7326 LaCosta.  
Greg Deighton, 10 Care Free.  
Katie Wilson, 3657 Hillsdale Court.  
Aimee Giller, 2433 Lawry Drive.  
Luz Carrenza, 555 Stokade Drive.

Mayor Martini noted he received a letter from Mr. and Mrs. Fred Barry in opposition to the project, citing traffic concerns.

There being no other individuals present who wished to speak, Mayor Martini closed the public hearing at 11:30 p.m. and returned the meeting to the Council for action.

Senior Planner Tim Thompson said there was a lot of talk tonight about “quality of life” and one of the indicators of quality of life is traffic and vehicle miles traveled. He said the City established the NSSOI Plan in 1991 and this plan was a fairly good plan for 15 years ago and there was quite a bit of residential included in that plan; however with the number of residents we are expecting in Spanish Springs, it would be foolish for the City to not consider changing our Master Plan to allow the commercial businesses that

we are now seeing come to fruition on the Pyramid Highway. He said that one of things that Sparks has done through the 2002 Regional Plan Update Process is to designate this area as an emerging employment center... the idea being "Live/Work/Play"... people can work where they live and shop where they live, and that is what we want to see. He said this reduces the number of miles vehicles have to travel and reduced vehicle miles traveled translates into a better "quality of life".

Mr. Thompson pointed out that if Spanish Springs is only 50,000+ residents and there are no services or jobs, every one of those residents will be forced to drive along the Pyramid Highway, Sparks Boulevard, Vista Boulevard into Sparks and Reno to do their business.

Mr. Thompson emphasized that we change our Master Plan frequently and State allows us to change the Master Plan four times a year and staff consistently gets requests to change the Master Plan; however, we have not had a complete update of our Master Plan since 1991. He said that in those 15 years many things have changed and it is the job of staff to guide that change. He said Council Member Schmitt did a good job of discussing taxes and how taxes are distributed and what we, as a City are charged with, is finding the highest and best use for a piece of property and that translates into high assessed value. He emphasized there needs to be a balance, because single-family residential development, in the long run does not pay for itself and that balance comes from projects that bring the City a high assessed value and those are commercial, industrial, business park, high density multi-family and office type projects.

He said there had also been talk about "family environment" and one of the things that the City required was that the developer make the movie theater, the restaurants and the hotel accessible from the outside without having to go through the gaming floor.

Mr. Thompson said someone also brought up the issue of lighting. He said this is addressed in the handbook and the standards in the handbook will ultimately guide this development. He said in the staff report there is a paragraph on lighting and the requirement for cut-off luminaries, no lighting directed up into the sky, etc. He said City staff is very aware of concerns with regard to lighting and one of the things that we would require, prior to the issuance of a building permit, is a photometric plan which shows the location of the lights, to ensure the lighting does not exit the parameter of the property. Mr. Thompson said that many people may or may not see the difference between the lighting at Kohl's and WalMart, but there

is a clear difference in the lighting standards that were utilized by WalMart and those used by Kohl's. He said that since WalMart installed their lighting, the City has really looked into making those types of fixtures a requirement because they severely reduce the amount of lighting that projects up into the air.

Mr. Thompson said he also heard comments about the supplemental development agreements. He said this 1994 agreement does require that the City enter into a supplemental development agreement with the applicant which deals with the specifics of this project. He said this project is entitled in Wingfield Springs and in order to move this use to Tierra del Sol, essentially the use is detached from Wingfield Springs (or removed from the handbook) and it is then incorporated into the Tierra del Sol handbook. He explained that there are actually applications: one application to amend the Tierra del Sol handbook; the other application is to amend the Wingfield Springs handbook. He noted that in the staff's motion for approval to the Planning Commission, and should the Council chose to approve this project, staff's recommendation is that it be conditionally approved, subject to the City entering into that supplemental development agreement with the applicant and dealing with all these issues prior to the final approval process for the handbook.

Mr. Thompson pointed out that the property associated with the Tierra del Sol handbook was annexed in 1999 and the handbook was also adopted in 1999, so this is not something that is occurring now, it happened back in 1999.

Council Member Schmitt asked for clarification on the supplemental agreements that were required. Mr. Thompson said the intent of this supplemental development agreement is to nail down the specifics of the development and he would anticipate including in the development agreement is the language that is included in the current Wingfield Springs handbook, which restricts the amount of casino related activities to 100,000 square feet and the amount of actual gaming floor to 18,000 square feet, of which only 50% can be slot machines. Council Member Schmitt asked if there were any Nevada Revised Statutes (NRS) or other procedures that outlines this process. Mr. Thompson said he believed there was some language in the Wingfield Springs handbook, under the resort designation, that does discuss how this would be processed.

Mr. Thompson further explained that say in 10 years, if they wanted to expand the 18,000 square feet of gaming floor, the handbook contains language, so that if this were to happen, there is a process established, which includes the City Council and the Regional

Planning Agency. Council Member Schmitt asked if the Council could condition their approval so that the gaming floor was strictly restricted to 18,000 square feet and that it can't, under any circumstances, be increased.

Council Member Salerno said he was still confused about the traffic issue, stating he did not understand how it would not increase traffic. Community Development Director Neil Krutz explained that there is a forecasted reduction in traffic with this particular amended proposal when compared to the Tierra del Sol project that was approved in 1999, which can be contributed to the difference in the type of use proposed. It was originally proposed as a general commercial center (shopping, fast food, restaurants) with uses of relatively short duration. He said the entertainment center would mean that the patrons would stay longer, so the number of trips on any given day would be lower; lower by about 1,000 trips. He said something else that would have to be considered is that with a general commercial project there was a more even split between trips in the morning peak hour and the evening peak hour; whereas with an entertainment complex, the trips would be more focused in the evening peak hours than in the morning [peak hours]. This would have to be considered when it came time to look at the design plans to provide the road infrastructure in and out of the center. He emphasized that it doesn't go toward the requirement for the number of lanes, but it goes toward how the intersections are designed: the length of the turn bays; how the intersections are timed, etc.

Council Member Mayer commented that he was upset that this issue seemed to have put a wedge in this community and he hoped that which ever way this project goes, that the damage done to our community would heal.

Council Member Carrigan, said he wished this was only about a casino, but the decision would be much easier; however, it isn't just about a casino, it's about honoring a contract the City Council signed in 1994. He said that according to both our legal staff and our community development staff, we need to honor the contract and one of his concerns was how many development agreements we have and if this issue will come up again. He said had he been on the Council in 1994, he would like to think he would not have approved an agreement like this. Council Member Carrigan asked the audience to understand the decision the Council has to make and the consequences of their decision: if they vote yes, we're going to court; and if they vote no, we're going to court. He emphasized that his job was to protect the citizens of Sparks and make the best decisions he can.

Council Member Salerno commented that he felt this was really a regional issue that affected not only the citizens of Sparks, but also those in Washoe County, across the road from this project. He said it goes without saying that this will be a first class, quality product, but he felt that there was still a lot of confusion about what is the right thing to do.

Mayor Martini said he was very proud of all the City Council Members for taking in stride the “beating” they have been given [from the citizens] over the last few months on this issue. He said this issue has gone on long enough and one way or another it will be decided tonight. He thanked everyone who spoke for being respectful and acting with decorum, regardless whether they were for or against the casino.

Council Member Schmitt said that one of the things he loves in life is traveling, but best part of every trip he takes is coming home to what he considers the greatest City, in the greatest State, in the greatest County in the world. He said we all can be very proud of participating in democracy in action at this meeting.

Council Member Moss said she has given considerable thought to both sides of this issue and listened carefully to the arguments on both sides. She said that regardless of what is built on this property, there will be traffic on Pyramid. She said that her hope is that the community is able to come back together on other issues and not remain divided.

Council Member Carrigan made a motion to grant tentative approval of PCN05073 and requested that this approval be a roll-call vote.

Council Member Schmitt said he wanted to make a couple of amendments to the motion: that it is made clear that there is to be no future expansion of the 18,000 square foot of gaming floor area; and that we work on a tax structure so that as taxes are generated by this project, that 50% of the tax revenues be diverted back to the downtown area to help support redevelopment and special events.

Attorney Creekman asked if the second part of Council Member Schmitt’s motion was a merely a suggestion for staff to look into the possibility of doing this, or if it was an obligatory direction. Council Member Schmitt said this was a directive to staff to work out this agreement and bring it back to Council to approve. Attorney Creekman said that staff can certainly look at the possibility of doing this, but he had sufficient doubts about local

government taxation at this time to commit that what he is proposing is legally permissible. Council Member Schmitt asked when Mr. Creekman felt we could get an opinion on the legality of doing this. Mr. Creekman said it would probably take six weeks or longer.

Council Member Mayer requested that parliamentary procedures be followed and that Mr. Schmitt make a motion to amend Council Member Carrigan's motion and that Council Member Schmitt split his amendments into two separate votes.

Council Member Schmitt then made a motion to amend Council Member Carrigan's motion to make sure the 18,000 square feet is the maximum the gaming area, per in the agreement. The motion was seconded by Council Member Carrigan. Council Members Moss, Carrigan, Schmitt, YES. Council Members Mayer Salerno, NO. Motion carries.

Council Member Schmitt then made a motion to amend Council Member Carrigan's motion that if the project is approved tonight; an agreement be brought back to the Council, in what ever legal format that we can do, to redirect a percentage of the funds from the taxes that are generated from this project are redirected to downtown redevelopment. Attorney Creekman said it was not necessary to make a motion on this, that the council could simply direct the Attorney's Office to look into this.

Mayor Martini asked if there needed to be a motion to hold a roll-call vote. Attorney Creekman said he did not believe it was necessary.

Council Member Moss said that it was clear that Section 3.08 said that we would come back and talk about a supplement agreement within the City and her concern, and that of the Planning Commission, was that Tierra del Sol was not within the City in 1994; it was part of the Sphere of Influence, but not in the City. And if the other sections of the agreement are "frozen in time", then the boundaries of the City when the agreement was signed should also be "frozen in time". Mr. Thompson explained that essentially the agreement had a lock-in clause that freezes in time the plans that were in effect at the time the development agreement was adopted. It does not include the corporate boundary as well. He clarified that the agreement did not freeze in time the existing corporate boundary of the City in 1994.

Council Member Moss said the project is great; but the issue for her was whether this was the right place for the project. She said she

also had some concerns about the Regional Planning Commission and what they originally said in November of 1994 related to the project and she felt this project needed to go through the Regional Planning Commission because it has been substantially changed. Mr. Thompson responded that staff does not believe that the project, as proposed in Tierra del Sol handbook, is required to go back to the Regional Planning Commission as a project of regional significance, or other wise, because when Tierra del Sol was originally approved in 1999, it was approved for 200,000 square feet of commercial/retail use. He said a project of regional significance would be one that generated traffic in excess of 6,250 average daily trips and Tierra del Sol already went to the Regional Planning Commission and was subsequently approved. He said this change in the plan actually has fewer average daily trips than the original plan and because there is no increase in the intensity of the project, staff believes it is not required to go back for Regional Planning Commission approval.

City Clerk Debi Dolan then conducted a roll-call vote.

A motion was made by Council Member Carrigan, seconded by Council Member Schmitt for tentative approval of PCN05073, to tentatively approve the amendment to the Tierra del Sol Planned Development Handbook; limiting the allowed gaming floor area to 18,000 square feet now and in the future. This recommendation adopts Findings PD1 through PD21 and the facts supporting these findings as set forth in the Planning Commission staff report. The tentative approval includes the requirement that the applicant shall file the application for the final approval for the first phase of the planned development within one year from the date of the City Council granting tentative approval of the planned development handbook, and that the final handbook level of detail is equal to that which is required by a Special Use Permit, although a Special Use Permit is not needed. The tentative approval requires that the Wingfield Springs Planned Development Handbook be amended to remove the resort complex and a development agreement to supplement the 1994 Wingfield Springs Development Agreement be approved by the city that must include the modification to the Wingfield Springs Handbook, provide socially beneficial contributions and details regarding the transfer of the gaming component to Tierra del Sol; and that the supplemental agreement also include a condition that the architectural renderings displayed at tonight's meet are what is built; that the 200 room hotel and casino be built concurrently and that the movie theater and arcade be directly accessible by the public without going through the casino. These requirements are a prerequisite to Final Approval. Due to the nature of the tentative planned development, the

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Planning Commission does not recommend that the City Council require a bond at this point in time as stated in NRS 278A.490. Council Members Carrigan, Schmitt, YES. Council Members Mayer, Salerno, Moss, NO. Motion Failed.

Senior Assistant City Attorney David Creekman said that since the last motion failed, someone should make a motion to the opposite effect. Mayor Martini asked if someone wanted to make a motion to decline. Mr. Thompson noted that on page four of the staff report there was a motion for denial. City Council Member Mayer asked Mr. Thompson read the motion from the staff report

A motion was made by Council Member Mayer, seconded by Council Member Moss, to deny the tentative planned development handbook for Tierra del Sol, PCN05073. The project is not in the public interest as it relates to PD findings 18 and 21. The project as submitted and conditioned is not consistent with the City of Sparks Master Plan as the graphic depictions of land use designations in the City of Sparks prevail over the text of the NSSOI Plan and the graphic designations associated with the General Commercial land use designation do not permit resort/hotels with gaming. Additionally, the proposed modification of the Tierra del Sol planned development does not further the interests of the City because the Master Plan serves as the ultimate policy and guidance for land use development in the City. Council Members Mayer, Salerno, Moss, YES. Council Members Carrigan, Schmitt, NO. Motion Carried.

9.  
Comments from the  
Council and City  
Manager

Time: 12:33:44 p.m.  
None.

10.  
Adjournment

Time: 12:33:50 p.m.  
There being no further business, the meeting was adjourned at 12:33 a.m.

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Mayor

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City Clerk

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