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A G E N D A

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 23, 1976

CALL TO ORDER: 7:30 P.M. In the Commission Chambers of City Hall,
400 East Stewart Avenue, Las Vegas, Nevada.

ROLL CALL:

PLEDGE OF ALLEGIANCE:

OLD BUSINESS:

1. U-69-76(HO) Application of JAYNE UHERCIK at 3105 Sonia Drive in
(Abeyance Item Zoning District R-E for a Home Occupation Permit -
from 8/26/76) Allow the making of ceramic pieces and sale of greenware
at off-premise locations.

(Withdrawn)
2. V-82-75 Recommended conditions for continuance of the right to
exercise the Variance V-82-75 which is the approved
Variance of LAS VEGAS DUNES, INC. to allow a moto-cross
track.

NEW BUSINESS:

1. Z-25-76 - STRICKEN Status Review of the Request of Consolidated Land and
Waiver of Management Company on behalf of GERMAIN HOULE AND LEO
Trailer Park MAINWALL to allow a mobile home to be used as a temporary
Ordinance office facility on property generally located on the
Status Review southwest corner of Charleston Boulevard and Jones
Boulevard in Zoning District C-1 (Resolution of Intent
to C-2).
2. V-61-76 Application of BRENDA AND EMERY E. AYRES for a Variance
to allow an existing carport 1'9" from side property line
where 5' is required on property located at 410 North 8th
Street on the east side of North 8th Street between East
Mesquite Avenue and Linden Avenue in Zoning District R-3.
3. U-72-76 Application of STATE OF NEVADA, DEPARTMENT OF HIGHWAYS
for a Use Permit to allow a temporary sand and gravel
removal operation on property generally located ½ mile
west of the intersection of North Durango Drive and North
Rancho Drive and lying southwest 1000 ft. from Rancho Drive
and extending ¾ mile northwesterly from said intersection
in Zoning District R-E.
4. V-62-76 Application of JOHN L. BASIL AND MARY B. BASIL for a
Variance to allow a 40 ft. front yard setback where 50
ft. is required, and to allow a 12 ft. high fence
consisting of block wall for the first 6 ft. and chain
link for the next 6 ft. for a tennis court on the side
and rear property line where a 10 ft. setback is required
on property generally located on the southwest corner of
Lacy Lane and Alta Drive in Zoning District R-E.
5. V-63-76 Application of LOIS BRACKEN YATES for a Variance to allow
a duplex to be converted to business offices and to allow
the continuation of four (4) existing non-conforming
apartment units on property located at 2600 E. Bonanza
Road on the north side of Bonanza Road Between North
Eastern Avenue and North 28th Street in Zoning District R-E.

6. V-64-76 Application of STANLEY L. AND BLANCHE STEELE for a Variance to allow a 5 ft. overhang into the front yard area where 3 ft. is permitted on property located at 2412 E. Oakey Boulevard on the south side of Oakey Boulevard between Eucalyptus Avenue and Silver Birch Lane in Zoning District R-1.
7. V-65-76 Application of MINNIE WOO for a Variance to allow a carport located to the side property line where six feet (6') is required on property located at 2312 Santa Rita on the west side of Santa Rita Drive between East Sahara Avenue and St. Louis Avenue in Zoning District R-1.
8. U-74-76(HO) Application of BERT RAPP for a Home Occupation Permit to allow a construction company business office in a guest house on property located at 1726 Goldhill Avenue on the north side of Goldhill Avenue between Comstock Drive and Sharon Road in Zoning District R-3.
9. V-66-76 Application of ARTHUR AND MARY FOOTE for a Variance to allow a 36 ft. front yard setback where a minimum of 50 ft. is required on property located at 4888 East Monroe Avenue on the north side of Monroe Avenue between Marion Drive and North Nellis Boulevard in Zoning District R-E.
10. V-67-76 Application of JOHN L. SNYDER for a Variance to allow a six ft. (6') block wall located within the front yard area on property located at 711 East Park Paseo on the north side of Park Paseo between 7th Street and 8th Street in Zoning District R-1.
11. U-75-76(HO) Application of RAYMOND E. BAKER at 4621 Stacey Avenue in Zoning District R-1 for a Home Occupation Permit - Allow an office (helicopter service).
12. U-76-76(HO) Application of STUART AND SUSAN CARMICHAEL at 5129 Del Monte in Zoning District R-1 for a Home Occupation Permit - Allow an antique mail order type catalog service.
13. U-77-76(HO) Application of JOSEPH D. AND MOZELLA SCOTT at 1928 and 2000 Sunrise Avenue in Zoning District R-3 for a Home Occupation Permit - Allow a drafting and design service.

S U P P L E M E N T A L A G E N D A

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 23, 1976

1. U-78-76(HO) Application of DINO MATURI at 713 Antelope Way in Zoning District R-1 for a Home Occupation Permit - Allow a painting and wallpaper contracting operation.
2. U-79-76(HO) Application of JAMES L. WILLCOX at 5309 Del Rey Avenue in Zoning District R-1 for a Home Occupation Permit - Allow a photography business.
3. U-80-76(HO) Application of GEORGE W. MORRIS at 6305 Burgundy Way in Zoning District R-1 for a Home Occupation Permit - Allow a mail order service for supplying merchandise to retail stores.
4. U-81-76(HO) Application of AUBREY S. TUCKER at 1301 Sattes in Zoning District R-1 for a Home Occupation Permit - Allow a music and recording office.
5. U-82-76(HO) Application of ANDREW A. MARTINEZ at 412 Santa Fe Street in Zoning District R-1 for a Home Occupation Permit - Allow an office for the keeping of records for the E.S.L. Program to be conducted at an off-premise location.
6. U-83-76(HO) Application of DENNIS TERWELP at 100 North Lamb in Zoning District R-1 for a Home Occupation Permit - Allow an off-premise general maintenance and yard clean-up operation.
7. U-85-76(HO) Application of D. L. MC EWEN at 5224 West Oakey Boulevard in Zoning District R-1 for a Home Occupation Permit - Allow an office for the keeping of records for an air taxi business.

DIRECTOR'S BUSINESS:

1. Meeting Date Change Change meeting date of the November 25, 1976 (Thanksgiving) meeting and the December 23, 1976 meeting.

M I N U T E S

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 23, 1976

CALL TO ORDER: A regular meeting of the Board of Zoning Adjustment was called to order by Chairman Duncan at 7:30 P.M. in the Commission Chambers of City Hall, 400 East Stewart Avenue, Las Vegas, Nevada.

PLEDGE OF ALLEGIANCE:

PRESENT: Chairman Duncan, Mr. Miller, Mrs. Segretti, Mr. Canul

EXCUSED: Mrs. Emmett

STAFF PRESENT: Don J. Saylor, AIP, Director of the Department of Community Planning and Development
Howard A. Null, Supervisor of Planning and Zoning
Ira John Gardner, Planning Assistant
Barbara J. Cuva, Recording Secretary

OLD BUSINESS:

1. U-69-76(HO) Application of JAYNE UHERCIK at 3105 Sonia Drive in Zoning District R-E for a Home Occupation Permit -
(Abeyance Item) Allow the making of ceramic pieces and sale of greenware at off-premise locations.

WITHDRAWN

MR. NULL indicated this is a request for a Home Occupation Permit heard at the last meeting and the Board held it in abeyance for notification of the neighbors; and this item has since been withdrawn by the applicant.

NEW BUSINESS:

1. Z-25-76 - STRICKEN Status Review of the Request of Consolidated Land and Management Company on behalf of GERMAIN HOULE AND LEO MAINWALL to allow a mobile home to be used as a temporary office facility on property generally located on the southwest corner of Charleston Boulevard and Jones Boulevard in Zoning District C-1 (Resolution of Intent to C-2).
Waiver of Trailer Park Ordinance
Status Review
MR. NULL indicated this item appeared on the Agenda in error and that it should be STRICKEN.
2. U-75-76(HO) Application of RAYMOND E. BAKER at 4621 Stacey Avenue in Zoning District R-1 for a Home Occupation Permit - Allow an office (helicopter service).
3. U-76-76(HO) Application of STUART AND SUSAN CARMICHAEL at 5129 Del Monte in Zoning District R-1 for a Home Occupation Permit - Allow an antique mail order type catalog service.
4. U-77-76(HO) Application of JOSEPH D. AND MOZELLA SCOTT at 1928 and 2000 Sunrise Avenue in Zoning District R-3 for a Home Occupation Permit - Allow a drafting and design service.
5. U-79-76(HO) Application of JAMES L. WILLCOX at 5309 Del Rey Avenue in Zoning District R-1 for a Home Occupation Permit - Allow a photography business.
6. U-80-76(HO) Application of GEORGE W. MORRIS at 6305 Burgundy Way in Zoning District R-1 for a Home Occupation Permit - Allow a mail order service for supplying merchandise to retail stores.

7. U-81-76(HO) Application of AUBREY S. TUCKER at 1301 Sattes in Zoning District R-1 for a Home Occupation Permit - Allow a music and recording office.
8. U-82-76(HO) Application of ANDREW A. MARTINEZ at 412 Santa Fe Street in Zoning District R-1 for a Home Occupation Permit - Allow an office for the keeping of records for the E.S.L. Program to be conducted at an off-premise location.
9. U-83-76(HO) Application of DENNIS TERWELP at 100 North Lamb in Zoning District R-1 for a Home Occupation Permit - Allow an off-premise general maintenance and yard clean-up operation.
10. U-85-76(HO) Application of D. L. MC EWEN at 5224 West Oakey Boulevard in Zoning District R-1 for a Home Occupation Permit - Allow an office for the keeping of records for an air taxi business.

ITEMS 2 - 10
APPROVED

MR. NULL reviewed the Home Occupation requests and stated all of these requests meet the requirements of the City Code and are in order.

MRS. SEGRETTEI made a Motion for APPROVAL of Items 2 - 10, subject to the following conditions:

1. All advertising shall conform to the criteria for a Home Occupation Permit.
2. If a complaint is received regarding this operation, the surrounding property owners shall be notified and the Board will conduct a review and the approval may be rescinded.

Voting was as follows:

Mrs. Segretti - yes
Chairman Duncan - yes
Mr. Miller - yes
Mr. Canul - yes

Motion for APPROVAL on Items 2 thru 10 carried unanimously.

11. U-78-76(HO) Application of DINO MATURI at 713 Antelope Way in Zoning District R-1 for a Home Occupation Permit - Allow a painting and wallpaper contracting operation.
- WITHDRAWN

MR. NULL indicated that this item was a request for a Home Occupation Permit which has been withdrawn by the applicant.

12. V-82-75
APPROVED

Recommended conditions for continuance of the right to exercise the Variance V-82-75 which is the approved Variance of LAS VEGAS DUNES, INC. to allow a moto-cross track.

MR. SAYLOR stated this is the moto-cross track located immediately north of Tule Springs Park. It was approved by the City Commission on February 18; the ordinance stipulates that there is six months that you have to exercise the Variance. The attorney has ruled it is to my determination as to whether the Variance has been exercised. I have made this recommendation to the Board predicated upon my findings. There has been some work done on the road and grade, and the entrance way has been erected. The litigation involved a period of 90 days. No injunction was issued as part of the litigation, but it was hard for the developer to proceed. No well permit has been issued; the applicant has pursued obtaining a well permit, but the State has not taken final action. I don't know that the issuance of the well permit was a determining factor as to the validity of the final project. However, I don't believe the development could go ahead without a well permit on the property. Because of these reasons I recommend to you that the Variance be kept open

for a period of time representative of the time spent in litigation, 90 days, from the time the well permit is approved; and that no further work on the project be allowed until the matter of the well permit is finalized. If the well permit is granted, the applicant would have 10 days to commence construction, 30 days in which to have the property fenced, irrigation system installed and all grading completed, and all work completed in 90 days. If the well permit is not obtained, the Variance would, ipso facto, become null and void as of the date of denial or non-approval of the permit. Recognizing that neither the City nor the applicant has any control as to when the State will make a determination on the well permit, it becomes difficult to establish a time limitation. But, also recognizing the need for a time framework, I recommend that the matter of the well permit be concluded no later than December 30, 1976, or the Variance becomes null and void, unless the applicant can prove to the City that the delay has been caused by matters beyond his control. They could keep it open for an indefinite period of time because it is in the hands of a state department as to when they act upon the well permit; but rather than leaving it in this framework, I have further recommended that the well permit be concluded no later than December 30 unless the applicant can prove to the City that the delay has been caused by matters beyond his control. This is on your agenda as an item for action as to whether or not you want to accept the recommendations of staff until these things are satisfied.

CHAIRMAN DUNCAN asked after December 30, if this permit has not gone through, then this Variance would be null and void?

MR. SAYLOR indicated yes, unless the applicant can prove to my satisfaction that he has pursued the well permit and the only reason they haven't taken action is because of a delay from the State. If this is the case, then it would still be open.

CHAIRMAN DUNCAN asked to hear from the applicant.

MR. LESTER EMERSON, 3911 Mountain View Boulevard, appeared representing Las Vegas Dunes. He stated that due to the litigation and time involved that we were tied up, there have been serious setbacks. All the fence has been purchased. The work involved would be all the fence purchased; the entrance way built; six tenths of a mile of the City access road graded; complete perimeter right-of-way in preparation for the fence; the track layout, probably sixty percent is built; and the parking area is graded. The things to be done really are the oil penetration on the access road and the parking lot to control for dust. During all of this litigation, a person did not have the heart to push on with the progress.

CHAIRMAN DUNCAN asked the status on the well permit?

MR. EMERSON stated that it is to be heard on October 5. From all of our engineering points, recreation has the second highest priority for water in all of the country. We have done some more studies and even if this is turned down on October 5th, permanent wells are for sale. One million gallons and up can be drawn and wells can be purchased from \$2,000 through \$150,000. We feel that through recreation, and the kids and adults (about 2,000) that use this as well, that we have the right to water as well as anyone else. But in the event that we are turned down, and I don't think we should be, we will have to purchase water. I think Mr. Saylor brought up some good points, but I think the terms are rather harsh.

CHAIRMAN DUNCAN asked the applicant if he couldn't live with the 90 day clause?

MR. EMERSON replied that he didn't think so. The kids would like us to finish this in one week; I have about 500 kids calling me every week. But to put in the well and the booster pumps and be pushing on with all the other things, I think the 90 days is too harsh.

CHAIRMAN DUNCAN asked if work was being done now out there on the weekends?

MR. EMERSON replied that work had been done out there on the weekends but was not being done at the present time as the City had asked them not to. I have a lot of faith in this project or I would never have started it in the first place. The total expense is \$125,000. Our Variance would have been up in January, 1978, and that is why I think the terms are rather harsh on the 90 days.

MR. CANUL asked how many months would be needed?

MR. EMERSON replied about six months. I have people involved with drill rigs, and we don't intend to drag our feet. It is a matter too, of cost.

MR. CANUL asked if you could live with it if we increased it by 120 days.

MR. EMERSON indicated yes, 180 days total would be more feasible. There are other ways of obtaining water if this is denied. We can work now until 1978 with all of the construction water that we need that we buy from the Water District for \$10 a month. I can pull a million gallons a day, so I could actually work on my property. The only person that I have to appease is the Air Pollution Control for dust, and you probably all know that if you create dust they order you to cease work. To turn around and say October 5th if the State turns me down on the well permit, then Mr. Saylor's recommendation would be no well permit, take his Variance away; well I think that I am involved too with these 500 kids. If I can find another way to find water, I will.

MRS. SEGRETTI stated that she did not understand the recommendation this way. As I understand it, if the well permit is not concluded by December 30, then the Variance becomes null and void, unless you cannot control the approval of the well permit. I would assume that this would come under this recommendation. If you cannot complete it by December 30, then it becomes null and void, unless you can prove that the delay has been caused by matters that are beyond your control; I would assume that means that you could go ahead and operate under those conditions.

MR. EMERSON stated it says that I will recommend that the matter of the well permit be concluded no later than December 30, 1976, or the Variance becomes null and void, unless the applicant can prove to the City that the delay has been caused by matters beyond his control. I need 180 days to make this concerted effort.

MR. CANUL asked how much was invested?

MR. EMERSON indicated \$120,000 with land payments and all of the things that we have purchased, and we still have a ton more to put in there.

MRS. SEGRETTI asked if you have a hearing on October 5, and the well permit is not concluded until December 30, would that not give you enough time?

MR. EMERSON replied, "no" because if I am turned down on October 5 then I have to make other arrangements for water. I think this might be the key because then we will have to purchase water.

MRS. SEGRETTI asked Mr. Saylor if this was not in his staff report, the purchase of water?

MR. SAYLOR replied "no". Staff was in essence saying that if he does not get the well permit that the Variance is null and void. If the well permit is not concluded by December 30th, then it also becomes null and void. He is saying that his hearing is on October 5th, at which time they will say yes or no. According to staff's recommendation if they say no, the Variance is dead.

MR. EMERSON stated that he felt this would be too harsh of a condition.

MRS. SEGRETTI asked what date are you asking for?

MR. EMERSON stated that he would like six months from today. With these recommendations as they are if I am turned down on October 5th then this Variance is dead. I need time to make this concerted effort and to find water if this is denied on October 5th.

MR. MILLER asked even if you get the well permit, you would like six months?

MR. EMERSON replied yes, to do it right I think I would need that much time.

MRS. SEGRETTI asked, you are asking for an extension up until February?

MR. EMERSON replied yes, I feel we have quite a bit at stake. We have already done a lot and what we intend to have done is too big of a cause for what we intend to do for the youth.

CHAIRMAN DUNCAN asked if anyone wished to speak in protest.

MR. DAVID M. PRINTZ, Attorney, representing the Tule Springs Homeowners Association appeared in protest. He submitted a protest sheet to staff. He stated with all due respect to Mr. Saylor, the Variance that was granted in this matter is now void; it expired by operation of law on August 18th of this year. To support my argument I would like to read the language of the proper ordinance. Mr. Printz then proceeded to read 11-1-24(16) of the Zoning Ordinance, which states that if a Variance is not exercised within six months after approval, it shall be void without further action unless a greater time limit is specified in the approval. There is a further statement, "Notwithstanding the above, the Board of Zoning Adjustment may grant an extension of time upon a showing of good cause." Although it appears that these statements are contradictory, it is not. What this Code provision means is that unless the Variance is exercised within a period of six months, it is absolutely void without any action being taken by anyone. The procedure is to go over to City Hall and obtain an application for an extension of time; that was not done, so as a legal matter the Variance that was granted is now void. The only thing before this Board is whether or not the Variance was exercised. Contrary to what Mr. Saylor says, there is a meaning for "exercised". I would like to point some of those things out. Webster's Unabridged Second Edition Dictionary defines exercised as habitual use, practice, to carry out, perform, fulfill. The courts have also judicially construed the word "exercised". In a case from Louisiana, the words, "exercised the right" were construed as the equivalent of the actual exercise expressed noting something completely done and accomplished. Now granted on large projects there is very little likelihood that all of the work could be completed with a six months time period. It can't be argued that Las Vegas Dunes has

qualified under the word "exercised". If I understand it, the only work that has been done is that they have graded two sides and have erected a gate at the entrance way. This work was performed on August 3 and 4. The City told them not to continue at that time as they had not submitted a proper grading plan. It seems that the initial step was not taken to qualify under the definition of "exercising the Variance". The comment was made that this was tied up for 90 days in litigation. This is true but an automatic extension of time to be granted should not be the case. There are some cases that go on for five or ten years. Are we to believe that the litigant automatically gets an extension of time if the matter takes five or ten years. Many changes can happen in that period of time; and this is not a reasonable assumption, especially in line with the code provisions itself, which says that if a Variance is not exercised within six months after approval, it shall be void without further action. It is apparent that Las Vegas Dunes has not taken the proper steps to exercise that Variance; therefore, this Board actually has nothing to hear. It is completely without jurisdiction to decide anything on this matter. The Variance expired on August 18, 1976, as a matter of law and as the Code provisions say without any further action; therefore, this particular body has no jurisdiction to decide anything in this matter at this time because the Variance is absolutely void.

MR. MILLER stated the counselor claims that the Variance has lapsed by the 18th of August of this year. To your knowledge Mr. Saylor, is that correct?

MR. SAYLOR stated he is simply expressing his opinion to that effect. It is not a statement of fact. The procedure before you is that which has been advised to me by the City Attorney, who hands down the legal opinions.

MR. CANUL asked if the applicant came and filed for an extension of time?

MR. SAYLOR stated no, an extension of time is not involved here. The question is whether or not he has exercised the Variance.

MRS. SEGRETTE asked staff if this Board is out of order to consider this application?

MR. SAYLOR stated that he would not have brought it before the Board if that were the situation. It is before you with the full blessing of the City Attorney's office.

CHAIRMAN DUNCAN asked if anyone else wished to speak in protest?

MRS. JOY RUSTON, 8600 Ruston Road, appeared. I think one very strict condition of this Variance was that of Mr. Arkell of the Air Pollution Control. I know his stipulations were to be followed. His first stipulation was that during construction restrict access with initial construction - a 6 ft. fence around the subject project. They took out a fence permit last February and have not begun to erect a fence. Another stipulation of his was erection of a water tank to be constructed for dust control during construction. They never elevated the water tank.

MR. CANUL asked if any water trucks were used in this project?

MRS. RUSTON replied yes, some of the time, but that was not Mr. Arkell's stipulation. I have a letter here from Mr. Arkell dated August 16, in which he states that these stipulations were not met.

CHAIRMAN DUNCAN asked if at any time that this matter was in litigation, did they do any work out there?

MRS. RUSTON replied no. The judge's decision has never been filed and the litigation has never been solved. The only work that was done out there was on August 3 and August 4. They did not have grading plans so they were shot down by the City.

MR. CANUL asked, they did not start construction until August?

MRS. RUSTON stated they never made a move to do anything on the property. They did not follow Mr. Arkell's stipulations. As of the 18th of August, they had only graded along the two sides of the property. The following Saturday they were shot down by the City. They were doing extensive work and Mr. Purvis was out there trying to get the operation shut down. At the Board of Zoning Adjustment meeting of January 18, 1976, and I read from the minutes, Mr. Churchfield stated we asked the City a year ago for an access road along the Gun Club. There is a road there, an existing gravel road. So as of last January, there was an existing gravel road, so how did he put it in now? They have not complied with the stipulations, not even so far as submitting the grading plans to the City nor carrying out Mr. Arkell's stipulations. And grading two inches deep on two sides of the property, I don't think could be labeled as construction, but rather destruction.

MRS. MOIRA THOMPSON, 8512 Log Cabin Way, appeared in protest. She stated that we are talking about our homes out there that are valued at a minimum of \$75,000., and never once has anyone seen our homes. We were there first, and this is not the proper place for this type of facility.

MRS. RUSTON stated that she would like to point out that any money that was expended out there on grading etc. was done with their own equipment at cost and on Saturday and not during the week when their equipment was tied up.

MR. CANUL stated that this is still a cost factor no matter when it was done.

MRS. RUSTON stated this is true and that she had graded two sides of her property also, and it is not a really big cost. They have not followed the stipulations. I would like to point out that as far as their money expended, this is not the Federal Government and this Board is not here to bail them out. Can we come to the City and say this motorcycle track has lowered the values of our homes and will you consider our costs and bail us out? This is not the point, the money expended.

MR. SAYLOR stated that he thought we have to keep in mind that this Variance was approved and this is not the issue here.

CHAIRMAN DUNCAN stated that is right and we cannot revoke that approval.

MRS. RUSTON asked if grading two sides of the property and putting up three telephone poles in six months was construction? Mrs. Ruston also stated that they were never tied up with an injunction and as far as the litigation goes, their attorney has never filed the judge's findings; so legally it is still in litigation. They are still in court.

MRS. THOMPSON asked when something is dead and runs out, the Variance has run out, it was dead on August 18, is it not normal to ask for an extension?

MRS. SEGRETTI stated yes, unless there is reasonable doubt as to why they could not complete it.

MR. CANUL stated this Variance was approved in February and judgement was filed in March. I think that if you had anything against it, you should have come in at that time.

MRS. RUSTON stated we did.

MR. CANUL stated but the Variance was approved.

MRS. RUSTON stated they also appealed it to the City Commission and it was approved there.

MR. PRINTZ stated that the only thing before this Board now is whether or not it has the authority to do anything in regards to Mr. Saylor's recommendation. There is a difference in the law between mandatory language and discretionary language. Mandatory language suggests such words as "shall". That is what we have here; it says six months after approval, it shall be void. It is followed later with discretionary language. That means that there is another procedure set up for them to obtain another extension of time. That wasn't done because there was no injunction pending during the litigation. So this Board is without jurisdiction.

MR. CANUL stated that the way he interprets this is that once you give a person a time limit, you are telling that person that he can do it within that six month time period. It doesn't matter that it is within one day before that deadline.

MR. SAYLOR indicated that is right. The basic thing involved here is the matter of the definition of the word "exercised" not as quoted out of Webster's or some other dictionary. The City Attorney has handed me a determination to be first made by me, which I have made and bring forth to you for a determination as to whether it will go before the City Commission for a final decision as to whether or not the Variance has been exercised.

CHAIRMAN DUNCAN stated that whatever action we make tonight will be a recommendation to the City Commission.

MR. MILLER asked if this Board would deny this, is it not possible for them to come in and reapply, legally?

MR. SAYLOR stated that if the Variance is finally determined by the City to be null and void at this point in time, yes another application could be made.

MR. MILLER stated as I understand it what we have here is their viewpoint and your viewpoint as to whether or not they have exercised their Variance.

MR. SAYLOR stated that is right, a difference of opinion.

MR. MILLER stated that they could come in and apply for another Variance and have a clean slate.

MR. SAYLOR stated the final decision will be made by the City Commission as to whether or not the Variance has been exercised.

MR. CHARLES M. BROWN, Vice-President of Las Vegas Dunes, appeared. There are a couple of things that were not brought into this matter. We were working out there and are now stopped. When we first applied for a permit, we asked the City if they knew how to build a moto-cross track and if we needed any plans. They said no, we don't know what to do and you don't need any plans. Nobody knows how to build a moto-cross track. Then we went to court, and that is what happened to the first month. We layed off of the project because we didn't know what the outcome of it was. We went out there to go to work,

and the City came out and stopped us. The City Public Works Department said we needed plans to show what we are going to do. This was two weeks before our deadline was up. I, myself, got the plans three days before the deadline was up to where they accepted what we were going to do because the City does not know how to build a moto-cross track; and they don't know what is right or wrong. We said let us do it, and we will show you how. You can't go downtown and buy 5400 ft. of fence; you have to wait until it comes to Las Vegas. I have that fence in my backyard.

MR. MILLER asked if this was granted in February, why did so much time elapse before construction was started?

MR. BROWN stated that the City Commission and ourselves were tied up in court, against the Board of Zoning Adjustment; they said they ruled it wrong to start with. They filed a claim against it. So we are sitting here waiting to see if we are legal or if we are not legal. We waited for a judgement before we began work. I think you would do the same thing; you are not going to work on the project and spend more money when you don't know where you are. When we started work we were stopped because we needed permits, etc. We had a permit to build this thing in March. We would have had it done the first time if we had not been stopped. The City told us we needed prints. I asked them of what and they said they didn't know exactly, but we did need prints. This is just one of the problems I ran into. It took them three days to get a profile of it.

MR. PETE BUTTEROWE, 3121 Liberty Circle South, appeared in favor of this request.

MRS. SEGRETTI made a Motion for APPROVAL of V-82-75, subject to the following conditions:

1. That the exercise of the Variance be kept open for a period of time representative of the time spent in litigation, 90 days, from the time the well permit is approved.
2. That no further work on the project be allowed until the matter of the well permit is finalized.
 - a. If the well permit is granted, the applicant would have 10 days to commence construction; 30 days in which to have the property fenced, irrigation system installed and all grading completed; and all work completed in 90 days.
 - b. If the well permit is not obtained, the Variance would, ipso facto, become null and void as of the date of denial or non-approval of the permit.
3. That the matter of the well permit be concluded no later than December 30, 1976, or the Variance becomes null and void, unless the applicant can prove to the City that the delay has been caused by matters beyond his control.

Voting was as follows:

Mrs. Segretti - yes
Mr. Miller - no
Chairman Duncan - yes
Mr. Canul - yes

Motion for APPROVAL carried by a 3-1 vote.

13. V-61-76

APPROVED

Application of BRENDA AND EMERY E. AYRES for a Variance to allow an existing carport 1'9" from side property line where 5' is required on property legally described as the west 120 feet of Lot 5, Block 18, Bucks Subdivision of Las Vegas, located at 410 North 8th Street on the east side of North 8th Street between East Mesquite Avenue and Linden Avenue in Zoning District R-3 (Limited Multiple Residence).

MR. NULL stated this is a multiple residential area. He pointed out the area on the plot plan and indicated it was a normal rectangular lot. The existing carport comes within 1'9" of the side property line. No permit has been taken out for this particular carport.

MR. CANUL asked if the carport was attached to the house?

MR. NULL stated the roof may be, I am not sure. It is not enclosed; it is an open carport.

CHAIRMAN DUNCAN asked if the work was done by a contractor?

MR. NULL stated he didn't know, staff could not find a permit for this work. If approved, we have some requirements: conformance to code requirements, and take out a permit. We have one approval and no protests.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. EMERY AYRES, 410 N. 8th Street appeared. He stated that he was hard of hearing but would be glad to answer any questions.

CHAIRMAN DUNCAN asked how long the carport has been built?

MR. AYRES replied it was built about three months ago.

CHAIRMAN DUNCAN asked if a contractor did the work?

MR. AYRES stated that he did the work and did not know that he needed a permit at the time. Later, I found out that I needed a Variance. He then submitted a written statement to the Board.

CHAIRMAN DUNCAN asked if the carport was connected to the house?

MR. AYRES replied, yes, it is.

MR. MILLER asked if there was a wall dividing the property from the neighbor's property?

MR. AYRES stated there is a six ft. high fence, and the 75 ft. driveway was built long ago. We moved in about three and a half years ago. The carport was built about three to four months ago. It only has an aluminum post over it. It is only 1'9" from the dividing fence, but I am sure there will never be a complaint because the carport is seven feet high. Directly behind the fence there are flower trellises, and two birdhouses and one tree.

CHAIRMAN DUNCAN asked Mr. Null if he had inspected the house personally and if there was space between Mr. Ayres' house and the neighbor's house.

MR. NULL replied yes, the other house sits back on the lot so the carport is next to the front yard.

MR. CANUL asked what is staff's recommendation?

MR. NULL replied that staff would recommend denial but would point out that there is nothing detrimental to the neighbors.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MRS. SEGRETTI made a Motion for APPROVAL of V-61-76, subject to the following conditions:

1. All necessary permits and inspections shall be obtained as required by the Department of Public Services.
2. Conformance to the plot plan.
3. Conformance to the code requirements and design standards of City departments.

Voting was as follows:

Mrs. Segretti - yes
Mr. Miller - yes
Chairman Duncan - yes
Mr. Canul - yes

Motion for APPROVAL carried unanimously.

14. U-72-76

APPROVED FOR
FIVE (5) YEARS

Application of STATE OF NEVADA, DEPARTMENT OF HIGHWAYS for a Use Permit to allow a temporary sand and gravel removal operation on property legally described as the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$), and the West Half (W $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$), and the West Half (W $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$), and the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$), and the West Half (W $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the West Half (W $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the West Half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), and the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, T. 19 S., R. 60 E., M.D.B.&M., generally located $\frac{1}{2}$ mile west of the intersection of North Durango Drive and North Rancho Drive and lying southwest 1000 ft. from Rancho Drive and extending $\frac{3}{4}$ mile northwesterly from said intersection in Zoning District R-E (Residence Estates).

MR. NULL pointed out the location on the screen. This site is 1000 ft. off the highway. It is actually in the middle of nowhere. The nearest residence is about 3500 ft. to the west. The Highway Department presently has a removal operation in the general area. There are eight protests, most of them own land adjacent to the proposed area. Staff feels that this operation should be operated in a proper manner with no dust other than what is normal. We are concerned about the noise level during normal hours. Further, that when the work is done, we would like to see the land returned to some state of usefulness. These people are concerned about their property. The agreement between the State Department of Highways and the B.L.M. calls for water being used for dust control in access roads and the wetting of sand and gravel being involved. They talk about the fact that they will meet all federal and State air pollution laws. Staff recommends approval based on these conditions.

CHAIRMAN DUNCAN asked if there were any complaints across the way?

MR. NULL replied not that he knew about.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. FRED PINJUV, appeared representing the Highway Department. The main reason for this gravel pit is for the construction of the West Fremont and Rainbow expressways. This is the pit that we have to have for the contract to show that the contractor can build those sections of the freeway. Our contractor does not have to use this pit, but by law we must have a pit for the contractor to use if he wishes to. The contract, if awarded next year, will last about three years. It is called a free use permit to be used on the Rancho Expressway. This gravel operation will be simply for that use. We hope to go to contract this year or early next year with that section of the Rainbow Expressway to show approximately 1,300,000 yards of gravel in this pit, which we say we will use approximately 750,000 to 800,000 yards.

MR. MILLER stated that part of staff's recommendation was to put the land back to some state of usefulness. If you are taking out 780,000 yards, what will you fill in?

MR. PINJUV stated that they do not fill it in but terrace, slope and reseed it with sagebrush and natural vegetation. I seriously doubt that any contractor will use that pit anyway; it is too far out there. They will probably use a commercial site; they do that nine times out of ten.

MR. MILLER asked, in future years, what is the chance of water running off?

MR. PINJUV stated in this area almost nothing. That is why we reseed it so there will only be the normal water run-off.

MRS. SEGRETTI asked you would be replacing the landscaped and architectural structure of the land prior to the time that you move the operation?

MR. PINJUV stated yes, it is a requirement of the Federal Government anyway before they will let us use their land under the new Environmental Act.

CHAIRMAN DUNCAN asked, you think the extension of time on this would be 1982?

MR. PINJUV stated yes, our contract should cease mid 1980 or early 1981, and we would like the additional time should someone go on strike or something comes up.

MR. MILLER asked if this Board could put a temporary time limitation on this.

MR. SAYLOR stated, yes, you may put a time limitation on it.

MR. DON NELSON, 7200 North Rancho, appeared in protest. He stated that he owns and operates Las Vegas Shed Company located at Rancho Drive and Durango. He submitted a map prepared by the Bureau of Land Management and pointed out both the private and public owners in this area. There is no need for the Highway Department to put this gravel pit out here in this area. They can locate anywhere and can obtain a withdrawal from the B.L.M. and locate in an area where there are no private properties. They operate the pit immediately adjacent to my property. For the last two months they and the air pollution people admitted that it

is impossible to control fugitive dust. Air Pollution stipulates that there shall not be any fugitive dust. This is not a responsible way to operate as I have a lot of dust on my property. He submitted a letter of protest from some elderly people who have lived in the area for about three years. They could not make it to the meeting. This area is very windy and dust blows for miles. I am asking that you deny this but if you do approve it, I ask that you stipulate that no fugitive dust be allowed across the property lines.

CHAIRMAN DUNCAN asked how this would be controlled?

MR. NELSON stated like a contractor would. They should set up a sprinkler system. Air Pollution has no way of policing them. We called the Air Pollution; he told us we live in the middle of the desert and have to expect dust. I think you should also require them to quit claim back to the B.L.M. all of their rights for that existing gravel pit because it violates their own standards. This is another example of them not operating responsibly. Their own design manual stipulates that all gravel pits must be located 1000 ft. from a right-of-way line. That existing pit where they have their machinery is immediately adjacent to two right-of-ways, the Tule Springs Road and the Tonopah Highway. So they are violating their own design manual, and are not responsible. They can locate somewhere else where there is no private property.

MR. DANNY DEMEYERS appeared in protest. I want to confirm what Mr. Nelson told you. I have received about 24 phone calls from people in the immediate area on the existing pit. This gravel pit is going to be about a mile and a half from some County urbanized areas that they are building. There is a heavy wind there, as Mr. Nelson says, that will be blowing down the Tonopah Highway and into the Tule Springs area. I just wanted to point out to you in denying this that the situation existed prior to this across the street where the air pollution requirements were simply not met. It was closed down once or twice by the Air Pollution Board.

MR. MILLER stated then they are being policed.

MR. DEMEYERS stated the problem seems to be, as I understand it, that the aggregate that the Highway Department is requiring from this particular pit is of such a fine nature that it is almost impossible to utilize water to keep the dust out. It does pose a traffic hazard as the people do have to put their traffic lights on to drive through this area during the daylight hours.

MRS. JOY RUSTON, 8600 Ruston Road, appeared in protest. She stated that we have to use our traffic lights. It is a difficult problem to police and they have been shot down by the Air Pollution Control.

MRS. MOIRA THOMPSON, 8512 Log Cabin Way, appeared in protest. We moved out for the fresh air. It is not as if there is no place else that there is gravel. I can't see why they can't put it somewhere else. It looks like a fire burning with all of the dust blowing.

MR. SID PORTER, 7726 Lone Mountain Road, appeared in protest. He stated that he owns the property adjacent to the gravel pit. It seems like with 16 to 18 ft. he would have to have a pit 19 ft. deep in that area in order to get his gravel up. How in the world is he going to keep from pulling the water and gravel down? Eventually you will have erosion, and I would like to have an answer to that. It will cause erosion and decreased property values.

MR. FRED PINJUV stated that he has two geologists, and this man's calculations are not correct. If we take the 750,000 yards, the deepest part would be 6 ft. deep and only 5 ft. there at the maximum that we would take out. It would just be terraced.

MR. MILLER asked if there was an alternative?

MR. PINJUV stated no. These people all stated that there is gravel elsewhere. This is true but not gravel that you can make aggregate base for highways. There are only about two types you can use that meet Federal standards. This is the only one in the general area that had the quantity.

MR. MILLER asked Mr. Pinjuv if he knew of some of these conditions that exist that have been brought up.

MR. PINJUV stated yes, but Mr. Nelson is bringing up a fact on a pit across the way that has been there for several years. He is also bringing up a personal war he has going with the Highway Department. His stuff is sitting on our property.

MR. MILLER asked what could be done about the air pollution.

MR. PINJUV stated we have said that when we have made the quantity of chips we need for Tonopah in the near future to maintain that highway, we will shut down. The Air Pollution Board has been out there, and they did shut us up once when we didn't need it. They do police us. This is a new permit, and we have to ask you for the permit. The other gravel pit has been there since 1931 and that is what Mr. Nelson is protesting.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MRS. SEGRETTI stated she would ABSTAIN from voting on this item due to her political association with Mr. DeMeyers.

MR. NULL stated that staff would suggest that there be a review in at least five years; that they meet E.P.A. standards for dust control for both access roads and piles; and that they meet code requirements and ordinances.

MR. MILLER made a Motion for APPROVAL with the stipulation that this be reviewed within two years and not be allowed to operate for more than five years.

MR. SAYLOR stated that the word "review" somewhat perturbs him when it is a part of a condition, because I don't know what the Board means by review. But in the event that you do use that as a condition, I recommend that you use another condition that it should not be used for more than five years.

MR. PINJUV asked what is meant by review?

CHAIRMAN DUNCAN stated that review means that you will return here at the end of two years before this Board and we will review the fact as to whether you are violating any stipulations.

MR. PINJUV stated the contract will take about two to three years. Does this mean I will be shut down during the review period.

CHAIRMAN DUNCAN stated no, you will just come before the Board for a review and we will determine if you are violating any stipulations.

MR. PINJUV stated that if they are violating any conditions, the Air Quantity Control Board will shut us down.

MR. MILLER stated that he will amend his Motion then and that a Variance be given without a review if the E.P.A. does police it. That was the purpose for the review.

MR. MILLER made a Motion for APPROVAL of U-72-76, subject to the following conditions:

1. Paving of the access road to the gravel pit. The access road should be along the Elkhorn alignment or other section line as shown on the Master Plan of Streets and Highways, as required by the Department of Public Services.
2. Operation of the pit in a responsible manner including provisions for adequate dust control, as required by the Environmental Protection Agency.
3. Leveling the site which may be in the form of terracing upon completion of the work, and ground cover to be restored.
4. This Use Permit shall be limited to a five-year time period and will expire September 23, 1981.

Voting was as follows:

Mr. Miller - yes
Mrs. Segretti - abstain
Chairman Duncan - yes
Mr. Canul - yes

Motion for APPROVAL carried by a unanimous vote with one abstention.

RECESS:

CHAIRMAN DUNCAN declared a fifteen minute recess at 9:05 P.M. and reconvened the meeting at 9:20 P.M.

15. V-62-76

APPROVED

Application of JOHN L. BASIL AND MARY B. BASIL for a Variance to allow a 40 ft. front yard setback where 50 ft. is required, and to allow a 12 ft. high fence consisting of block wall for the first 6 ft. and chain link for the next 6 ft. for a tennis court on the side and rear property line where a 10 ft. setback is required on property legally described as that portion of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 32, Township 20 South, Range 61 East, MDB&M, described as follows: commencing at the northwest corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 32; thence south 0°56' east 40.00 feet to the true point of beginning; thence continuing south 0°56' east 91.99 feet; thence south 89°56' east 267.45 feet; thence north 0°43' west 91.99 feet; thence north 89°56' west 267.81 feet more or less to the true point of beginning, generally located on the southwest corner of Lacy Lane and Alta Drive in Zoning District R-E (Residence Estates).

MR. NULL stated this is a Residential Estates District and a corner lot. It is presently vacant. We have one protest and no approvals. If approved, staff recommends that they sign an Assessment District Agreement for future street improvements along Lacy Lane and Alta as required by Public Services; conformance to the plot plan; conformance to code requirements and design standards of City departments. Staff normally does not make any recommendation in an R-E District. The protest is not the immediate neighbor.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. JOHN BASIL, 27 Zircon Circle, appeared. I plan on building the proposed home within the next four months. Unfortunately, the lot size was not designed to have the

tennis court facing south and north which normally a tennis court is built. I designed the court to go east and west. The particular lot is four feet below the lot level. The original owner stated that the City would put a retaining wall on the Alta side because of a water problem when it rains. I turned to the City, and they said as we had nothing in writing they could not do anything. I designed it this way because with the existing alley on Alta I will have to put $4\frac{1}{2}$ ft. of fill from the property line to where the home would start about 60 ft. from the Lacy setback, so the water will not pour on my property from Alta. The rear of the property from Alta is a complete erosion. I wanted a 40 ft. setback because I am going to have about $4\frac{1}{2}$ ft. from the tennis court wall to the back of the house. The additional 10 ft. that I want would give me some concrete area. As far as having a 6 ft. high fence, I intended to put a 6 ft. high chain link fence and since the back of the property is owned by the Water District, I am sure they would not have any objection to me going above six feet. As far as the Alta line, it will be six feet dropping down to two feet.

MR. MILLER asked the dimensions of the lot?

MR. BASIL stated it was 93 x 237, approximately a half acre.

MR. MILLER asked if the fence between the house and the tennis court would be a chain link fence?

MR. BASIL pointed out on the plot plan where the six ft. block wall will be indicating the back will be a six ft. block wall. I will have a retaining wall because I am about four ft. lower than Alta. You have to have 12 ft. for a tennis court. I want to put a six ft. chain link fence about the six ft. block wall.

MR. MILLER stated he was speaking of between the back of your house to the tennis court.

MR. BASIL stated that if he gets the 40 ft. setback, he will have 14 ft. If not, he will only have four ft.

MRS. SEGRETTI asked if construction had started yet?

MR. BASIL replied no, I want to get my Variance clear first and then I will start construction.

MRS. SEGRETTI asked if Mr. Basil had his permit for construction?

MR. BASIL replied no, I have my plans ready to submit to the Building Department based on a 40 ft. setback.

MR. MILLER asked if Mr. Basil understood staff's recommendations?

MR. BASIL replied no, he did not.

MR. NULL stated that Public Services requires that you sign an Assessment District Agreement and that you conform to code requirements.

MR. CANUL asked if the neighbors are objecting to this?

MR. BASIL stated the one neighbor wants to put up the block wall. I am sure that he has no objection to putting up the chain link fence.

MR. NULL stated that the tennis court is on the property line.

MR. CANUL asked if he was asking for a 40 ft. setback from the front?

MR. NULL stated yes, that 14 ft. would remove the house from the tennis court.

MR. HARRY WELLS, 501 Lacy Lane, appeared in protest. He stated that he lives directly across the street from this property. All the lots with one or two exceptions are built with a 50 ft. setback. I believe Mrs. Bauer at 504 Lacy Lane and Mrs. Burnley at 615 Lacy Lane object to this also.

MRS. BAUER, 504 Lacy Lane, appeared in protest. My husband is out of town, and he objects to this. We are next door to the south. I don't really object in a way, but our place will be on the market within the next year and we have been advised that the lights from this is not good for retail purposes. Our bedroom is right next door.

MR. BASIL reappeared and stated that the Bauer's property is illegal according to a survey; they should have had at least 9 ft. from my property line. I had the property surveyed and the way the survey looks they have approximately five feet from my property line, which is illegal. The lights have nothing to do with it. It will give me an inconvenience of not utilizing my lot the way I want to; if the lights are a problem, I will move it in 10 feet. I am a day person but like to play tennis at night for about an hour.

MR. CANUL asked if the lights could be shielded?

MR. BASIL replied that the lights shine in one direction only, into the courts.

MRS. BAUER stated that she is sure we can work this thing out between us. The lights were my husband's concern.

MRS. GLORIA BURNLEY, 615 Lacy Lane, appeared in protest. The only objection we have is the 40 ft. setback instead of the 50 ft.

MR. BASIL stated that he didn't know how the gentleman that lives directly across the street could say that his house is sticking 10 ft. out further would make any difference, as this is a corner lot.

MR. CANUL replied that since this is a corner lot, it wouldn't look bad because the rest of the houses on the street will be in a straight line.

MR. BASIL stated that every house on Lacy is at the 50 ft. minimum, and I am on the corner of Lacy and Alta. There are no views I am obstructing. Being a corner lot I feel that I am helping the area. It is going to be an expensive home I am building, and the 50 ft. would not make that much of an effect on anyone.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-62-76, subject to the following conditions:

1. Signing of an Assessment District Agreement for future street improvements along Lacy Lane and Alta Drive as required by the Department of Public Services.
2. Conformance to the plot plan.
3. Conformance to the code requirements and design standards of City departments.

Voting was as follows:

Mr. Canul - yes
Mrs. Segretti - yes
Chairman Duncan - yes
Mr. Miller - yes

Motion for APPROVAL carried unanimously.

16. V-63-76

APPROVED

Application of LOIS BRACKEN YATES for a Variance to allow a duplex to be converted to business offices and to allow the continuation of four (4) existing non-conforming apartment units on property legally described as a portion of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 25, Township 20 South, Range 61 East, M.D.B.&M., more particularly described as follows: commencing at the southwest corner of said Section 25; thence south 88°07'30" east 784.00 feet; thence north 1°17' east 30.00 feet to the true point of beginning; thence north 1°17' east 300.00 feet; thence south 88°07'30" east 146.00 feet; thence south 1°17' west 300.00 feet; thence north 88°07'30" west 146.00 feet to the true point of beginning, located at 2600 E. Bonanza Road on the north side of Bonanza Road between North Eastern Avenue and North 28th Street in Zoning District R-E (Residence Estates).

MR. NULL pointed out the area on the screen. This is a small enclave of R-E zoning which is sparsely built. Staff would not object to the Variance for the office that would front on Bonanza. The City has taken some right-of-way for widening. Because of the general area and proximity to Bonanza this would be difficult to use for multiple family residential. We would not object to the Variance. There are approximately three homes in this area; the rest are vacant lots. Staff feels that the office would be a buffering use. We have some conditions if approved. Public Services suggests signing of an Assessment District Agreement for future street improvements on Bonanza, and we would like to see some landscaping and underground sprinkler system. In addition, the roof and trash receptacles should be screened for the office use. Conformance to the amended plot plan and City ordinances should also be followed. We have no protests or approvals.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MRS. LOIS YATES, 2600 E. Bonanza, appeared. My husband is back east, and I am here alone. He told me to come down here.

CHAIRMAN DUNCAN asked if there would be compliance with the stipulations of staff?

MRS. YATES stated yes, but she did not understand them.

MR. NULL explained the stipulations to her.

MRS. YATES said this is agreeable

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MRS. SEGRETTI made a Motion for APPROVAL of V-63-76, subject to the following conditions:

1. Signing of an Assessment District Agreement for future street improvements along Bonanza Road as required by the Department of Public Services.
2. Landscaping and a permanent underground sprinkler system shall be provided as required by the Department

of Community Planning and Development and shall be permanently maintained in a satisfactory manner. Failure to properly maintain required landscaping and underground sprinkler systems shall be cause for revocation of a business license.

3. All mechanical equipment, air conditioners and trash areas shall be screened from view from the abutting streets.
4. Submittal of a landscaping plan prior to or at the same time application is made for a building permit.
5. Conformance to the plot plan as amended to reflect the above conditions.
6. Conformance to the code requirements and design standards of City departments.

Voting was as follows:

Mrs. Segretti - yes
Mr. Miller - yes
Chairman Duncan - yes
Mr. Canul - yes

Motion for APPROVAL carried unanimously.

17. V-64-76
APPROVED

Application of STANLEY L. AND BLANCHE STEELE for a Variance to allow a 5 ft. overhang into the front yard area where 3 ft. is permitted on property legally described as Lot 17, Block 2, Dawson Park #1; located at 2412 E. Oakey Boulevard on the south side of Oakey Boulevard between Eucalyptus Avenue and Silver Birch Lane in Zoning District R-1 (Single Family Residence).

MR. NULL pointed out the area on the plot plan indicating that it was in an R-1 area. They show the post quite close to the property line. We recommend that the posts be brought in to meet the six ft. requirement. Also Public Services would like them to dedicate 10 ft. for Oakey and repair the damaged sidewalks. The supports should be placed in 6 ft. from the property line and conformance to the plot plan and code requirements.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. STANLEY STEELE, 2412 E. Oakey, appeared. He stated the post is no problem; we will put the supporting post in. The posts will be in line with the existing house. He asked regarding donating the 10 ft. in front.

MR. NULL indicated this was Public Services requirement in case the road is to be widened.

MR. STEELE stated that up the street from them, the street is 60 ft. wide but where he lives it is 70 ft. wide.

MR. NULL said it shows only 30 ft. dedication on this lot whereas the Master Plan of Streets and Highways calls for an 80 ft. street.

MR. STEELE stated that from Atlantic on it is 60 ft. wide and from Atlantic to Boulder Highway, the street is 70 ft. wide. We would not mind giving the 10 ft. dedication if everyone else has to.

MR. CANUL stated that this would be in the future.

MR. MILLER stated that they are asking for him to dedicate 10 ft. but if he does not, they will have to purchase it.

MR. STEELE asked about the 60 ft. road from Atlantic west?

MR. MILLER stated they may need more than 10 ft., but it seems to me that they are asking for your property for nothing.

MR. STEELE stated we don't mind doing it if everyone else does it. Is this on a Master Plan?

CHAIRMAN DUNCAN stated that we are concerned here with the 5 ft. overhang.

MR. CANUL asked about the repair to the sidewalk?

MR. NULL replied that this is a normal requirement; the homeowner is required to make repairs to the sidewalk immediately in front of his property.

MR. MILLER asked if there was a problem with the sidewalk now?

MR. STEELE replied no, but there might be a crack in it. Originally, there were trees there, but we took them out. The sidewalk is not raised or lowered and it is not a hazard.

MR. MILLER made a Motion for APPROVAL of V-64-76, subject to the following conditions:

1. Repairing the damaged sidewalk along Oakey Boulevard as required by the Department of Public Services.
2. The carport supports shall be placed in 6 ft. from the property line.
3. Conformance to the plot plan as amended to reflect the above conditions.
4. Conformance to the code requirements and design standards of City departments.

Voting was as follows:

Mr. Miller - yes
Mrs. Segretti - yes
Chairman Duncan - yes
Mr. Canul - yes

Motion for APPROVAL carried unanimously.

18. V-65-76

APPROVED

Application of MINNIE WOO for a Variance to allow a carport located to the side property line where six feet (6') is required on property legally described as Lot 42, Paradise Village Tract 3, located at 2312 Santa Rita on the west side of Santa Rita Drive between East Sahara Avenue and St. Louis Avenue in Zoning District R-1 (Single Family Residence).

MR. NULL stated this is a R-1 District, again it is a matter of a side yard carport. We could not find a permit and the carport does exist. The house next door has a carport and drive so there is considerable distance between these two properties.

MR. CANUL asked how much distance?

MR. NULL replied approximately 16 ft. There is a 4 or 5 ft. high wood fence partly on the line. We have two protests and one approval. Staff recommends that a permit should be taken out and the other normal staff requirements.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. HOP LOUIE WOO, 2312 Santa Rita Drive, appeared. He stated they bought the house about two months ago, and the carport was broken down at that time. We got a contractor to put in this carport.

MR. CANUL asked if the contractor tore the old carport down and built this new one?

MR. WOO stated it was more of a shack. We had it torn down and put in a carport.

MR. CANUL asked if they had a contractor do the work?

MR. WOO stated that the man's wife is my secretary. I work at Caesar's Palace and thought he was a contractor. His name is Mr. Silverman.

MRS. SEGRETTI asked what kind of carport was this?

MR. WOO stated there was a long garage but no carport.

MR. CANUL asked if it was 4 by 4 with a flat roof.

MR. WOO stated that it did have a flat roof.

CHAIRMAN DUNCAN asked, when you spoke to this person about building this, did he advise or suggest that you would need a permit to do this?

MR. WOO stated that he was under the impression that we had the okay.

CHAIRMAN DUNCAN stated there doesn't appear to be a permit.

MR. WOO stated, I know, I spent the money and now I don't know what to do.

MRS. SEGRETTI asked on the carport cover, was it really a carport or rather a roof extending out from the house and if it is finished totally?

MR. WOO stated that it is finished but it is not painted.

CHAIRMAN DUNCAN asked if they expect to paint it?

MR. WOO stated yes, it will add onto the looks of the property in every respect. It was terrible before, but at least I can have a roof over my car.

MRS. SEGRETTI asked the name of the man that performed the work?

MR. WOO stated he was more or less like a friend. His name is George Silverman.

MRS. SEGRETTI asked if there were any opposition letters on this.

MR. NULL replied yes, two protests and one approval. The protest has two signatures on one letter, and they feel it is a fire hazard.

MR. MILLER asked if the oppositions were next door neighbors?

MR. NULL replied no, they are down the street on San Pedro Drive.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MR. MILLER made a Motion for APPROVAL of V-65-76, subject to the following conditions:

1. All necessary permits and inspections shall be obtained as required by the Department of Public Services.
2. Conformance to the plot plan.
3. Conformance to the code requirements and design standards of City departments.

MRS. SEGRETTE stated that she would ABSTAIN from voting as she was a neighbor to the Woos.

Voting was as follows:

Mr. Miller - yes
 Chairman Duncan - yes
 Mr. Canul - yes
 Mrs. Segretti - abstain

Motion for APPROVAL carried unanimously with one abstention.

19. U-74-76(HO)

DENIED

Application of BERT RAPP for a Home Occupation Permit to allow a construction company business office in a guest house on property legally described as Lot 5, Block 10, Bonanza Village, located at 1726 Goldhill Avenue on the north side of Goldhill Avenue between Comstock Drive and Sharon Road in Zoning District R-E (Residence Estates).

MR. NULL stated this is a Home Occupation. When certain questions are answered in the affirmative, staff needs to require a public hearing. From the letter, staff got the impression that this was going to be a business venture. It talks about business with applicants. Staff feels that this will be a part of a commercial operation and out of character for a home occupation permit. It is an R-E area, and there are very few vacant lots. These are very nice homes in this area. This property is now being built but is not finished. There is a 6 ft. wall along the entire complex with a gate opening onto Owens, which the applicant says will be used for business clients to come and go. There are three protests. The applicant has submitted a list of seven names that do not object to this. Staff feels this is going too far to consider as a home occupation; it is a business venture and we would object.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. EVAN WILLIAMS, Manager of Dalton Properties, appeared. He stated that we are a California Corporation licensed to do business in the State of Nevada. We originally came into Nevada and bought 80 homes in North Las Vegas that were distressed properties of HUD. We have eliminated those, and we did a very good job there. What we are trying to do now basically is live in our home and keep our expenses down. The home is 3300 square feet with a three car garage. This is a \$100,000 home with a 1200 square foot guest house. The guest house is basically three rooms.

MR. CANUL asked, you are building this as a guest house and are now coming back for a Variance?

MR. WILLIAMS stated that under the guidance of what I have applied for, the Building Department stated that as long as there was no advertisement, this is permitted.

MR. CANUL asked what kind of business will you have here?

MR. WILLIAMS stated it is property development. We classify as very low personnel. We are not a construction company such as having equipment. We will have a 1/2 Ton

Truck. What we are attempting to do is not any different than what is existing in the area. There is a contractor in the area who lives there; we have a landscaper on Tonopah who is using his rear yard for his own business purposes. There is a gentleman who owns a trucking business and parks his trucks in the yard. At 1910 Goldhill, there is a man who has a dog impound; he has twenty dogs there next door to a lady. She doesn't say anything as she is the neighbor. I think we have created more of a problem of asking for this thing in the proper manner than if we just would have went ahead and put our phones in.

CHAIRMAN DUNCAN asked the location of the nursery on Tonopah Drive?

MR. WILLIAMS stated it is Las Vegas Nursery, Bill Comings. It is located on Tonopah Drive about two doors off of Goldhill on Tonopah on the east side. He has a 3/4 acre lot and in the rear of the yard he has quite a few things back there. We came into North Las Vegas and they allowed us to operate an office within the tract we were working in.

MR. CANUL stated there is a difference here. In North Las Vegas you were inside the tract; this is a residential area. The only thing that makes it bad is that you apply for a guest house and now you come here and ask us to allow you to operate a business.

CHAIRMAN DUNCAN asked if this operation would create quite a bit of traffic?

MR. WILLIAMS stated it will be set 30 ft. off the road. There will be no entrance off of Goldhill.

MRS. SEGRETTI stated that judging from the map, you are located 1/2 block from any commercial area. This is in a residential estates area and if there are people operating businesses they are in violation of the law. You did apply for a permit to allow a guest house?

MR. WILLIAMS stated the guest house is finished. I will be living there. My permit consisted of a single family dwelling with a guest house.

MRS. SEGRETTI asked, and now you would like to use the guest house as a business office?

MR. WILLIAMS stated yes, it seems to have been done before.

MRS. SEGRETTI asked, why didn't you apply for a permit for a business office?

MR. WILLIAMS stated because it is an R-E zone. I made the application for a building permit and the application for the Variance at the same time.

MR. CANUL asked if he had a contractor's license?

MR. WILLIAMS stated that he was in the process of getting one.

MR. CANUL asked if he will be doing business now as a contractor?

MR. WILLIAMS stated yes, through another contractor.

MRS. CLARA HUNTER, 1420 N. Tonopah Drive, appeared in protest. She stated she was objecting to a Variance of this type in this area because of the type of homes that are built. We don't want this to be a commercial area. I have a total of 85 names of people who object to this type of business. She submitted the petition to the Board. We feel that if something like this is allowed in our area,

this will be a chance for others to do the same. There are a number of people here in person representing this group also who live in Bonanza Village that object to this.

REVEREND CHARLES WHITE, 1421 Comstock Drive, appeared in protest. I do not object to the type of business; however, if you let one business in, it will lead to others. And when you pay \$50,000 to \$60,000 for a home, you don't want a 7-11 Store next to you.

BARBARA CREAM, 1931 Mills Circle, appeared in protest. We object highly to having this type of business in our community. If you want to cut down on expenses for your business, my husband is in business too. We like our privacy and certainly do object to this highly.

MRS. VAN ALLEE VAN HOUTEN, 1209 Virginia City Avenue, appeared in protest. I object to this business going in on Goldhill, and I think enough has been said already.

MRS. MARCELLA RUNDUS, 1311 Virginia City Avenue, appeared in protest. We have 85 names on our petition and don't believe there are more than 85 people in Bonanza Village. If he is granted this, then some of the other people that have guest houses will apply for permission to have business offices here also, and we don't want this to happen.

DR. JOHN CREAM, appeared in protest. I am surprised that he would think about putting a business in this type of neighborhood.

MR. WILLIAMS stated I would like to say to the Board that I have talked to all of my neighbors adjacent to me, and they agreed that they do not object to me putting in answering phones and making out paychecks. I hope the Board will see fit to help me and my family.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MR. MILLER made a Motion for DENIAL of U-74-76(HO), because this use is out of character for a Home Occupation Permit and would not be compatible with the residential area.

Voting was as follows:

Mr. Miller - yes
Mrs. Segretti - yes
Chairman Duncan - yes
Mr. Canul - no

Motion for DENIAL carried by a 3-1 vote.

20. V-66-76

APPROVED

Application of ARTHUR AND MARY FOOTE for a Variance to allow a 36 ft. front yard setback where a minimum of 50 ft. is required on property legally described as the west 61½ ft. of Lot twenty-eight (28), Block two (2), Happy Valley Ranchos Tract #1, located at 4888 East Monroe Avenue on the north side of Monroe Avenue between Marion Drive and North Nellis Boulevard in Zoning District R-E (Residence Estates).

MR. NULL pointed out the area on the screen and on the plot plan. This is an R-E area with R-1 to the south. Patio has lattice type work; it is open at the top. Staff looked at it; it looks like it has been there for some time. Could not find a permit, but it could have been taken out before the records were kept. We have some conditions, if this is approved. Public Services requires that the applicant sign an Assessment District Agreement for future sidewalks on Monroe. They should take out a

permit if one has not been issued and meet the normal staff requirements.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. ARTHUR FOOTE, 4888 East Monroe, appeared. I built a planter of horseshoes out in front. I like roses, and we built it for that reason. My wife wanted to put hanging plants out to block the sun. It is made with 2 x 2's, 2 inches apart. This is not a water proof thing, and we didn't really think we needed a permit. The building inspector did come down and approve it.

MR. MILLER asked if the requirements of staff were understood?

MR. FOOTE replied yes, it would not be a bother; we have the house in escrow and that is how this came about.

MR. MILLER asked if there were any objections to staff's requirements?

MR. FOOTE replied, "no".

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-66-76, subject to the following conditions:

1. Signing of an Assessment District Agreement for a sidewalk along Monroe Avenue, as required by the Department of Public Services.
2. All necessary permits and inspections shall be obtained as required by the Department of Public Services.
3. Conformance to the code requirements and design standards of City departments.

Voting was as follows:

Mr. Canul - yes
Mr. Miller - yes
Mrs. Segretti - yes
Chairman Duncan - yes

Motion for APPROVAL carried unanimously.

21. V-67-76
ABEYANCE

Application of JOHN L. SNYDER for a Variance to allow a six ft. (6') block wall located within the front yard area on property legally described as Lot 7 of the Replat of Lots 2, 3, 4, 5, 6, and Plat of Lot 7, Block 2, Vega Verde Addition, located at 711 East Park Paseo on the north side of Park Paseo between 7th Street and 8th Street in Zoning District R-1 (Single Family Residence).

MR. NULL stated this lot is on a curve and is irregular in shape. He pointed out the area on the plot plan. The plans show the wall being set in five feet from the property line. This will act as protection for the pool. There are two protests and no approvals. Public Services would like the applicant to sign an Assessment District Agreement for future sidewalks on Park Paseo, as well as conformance to the plot plan and meet normal code requirements.

MRS. SEGRETTEI stated this is a lot with a curve. You have a six foot fence there; this will not obstruct the view?

MR. NULL replied no, the driveway is far enough away.

MRS. SEGRETTI asked, what about coming around the curve; would that not have the tendency to block the view from traffic coming in from the opposite direction?

MR. NULL stated this wall will be set in five feet from the property line. We ran the car in there and could see no problem.

MRS. SEGRETTI stated, I am not talking about the driveway, but the traffic coming in around Park Paseo.

MR. NULL stated staff ran the car along Park Paseo also and could see no problem.

MR. CANUL stated that the wall being five feet inside the property line helps out a lot.

MRS. SEGRETTI stated there are several areas where there are four foot fences, areas on the corner lots, and you cannot see.

MR. NULL replied that the curve angle in this case is always far enough ahead. The big problem is usually coming out of a driveway. Staff feels this is a unique situation.

CHAIRMAN DUNCAN declared the public hearing open and asked to hear from the applicant.

MR. JOHN SNYDER, 520 Tam O'Shanter, appeared. He stated he was building the pool and wall. I own the property and will move in as soon as it is finished. You can see around the corner with the five foot setback, and this is not a problem.

MR. LOUIS WEINER, JR., appeared in protest. He stated his mother lives across the street from the property. He submitted a letter of protest from the Johnsons that live on Park Paseo and 8th Street to the Board. There is not a fence in the entire area that is six feet high. From Sixth Street to East Charleston there isn't a fence other than picket fences until you get to Bobby Gordon's house. My mother objects to this and she will look out to a six ft. wall. Aesthetically, this is not very attractive. The wall is being put up to protect the swimming pool. They are remodeling and repairing the house that is there. The application for a six ft. fence should have been done first.

MR. CANUL asked if he had stated that there are some picket fences in the area?

MR. WEINER stated there are some 4 ft. picket fences coming down from 6th Street from Charleston Boulevard. Going around this building to the right up Park Paseo towards 6th Street is a dangerous street. There is an actual curb on the east side of the street, and there is a street that intersects almost directly opposite the home that is involved here. You have a "Y" coming in; if the street ran straight, it would run in. You do have a problem here. If there is a wall here, you will not be able to see clearly, and we will have a traffic problem in addition to what I think is aesthetically very unattractive.

MR. MILLER asked if it is required to have a permit for a fence; how did this happen that they got the swimming pool permit without the permit for the fence?

MR. NULL stated that he could not answer that.

MRS. SEGRETTI asked if the pool was built?

MR. SNYDER stated it is not completed until the fence is up. When we applied for that pool, we were informed that we would have to have the pool fenced off.

MR. BILL FITZGERALD, City Building Division representative appeared. He stated that all that is required around the pool is a 4 ft. barrier. It does not say fence.

MR. SNYDER stated that he was asking for a six ft. fence. I bought the house twelve years ago. There was a 5 ft. solid hedge around it at the time. Mrs. Weiner objected to that hedge also. Our fence will not be unsightly as this will be my home. His mother does not even look out of her window into my front yard but rather next door to me.

MR. MILLER stated, this gentleman is saying that he could get the pool permit without being required to have the six ft. fence around it. Is that correct?

MR. FITZGERALD stated he could get the pool permit when he applied for a six ft. block wall, but the Planning Department could not sign it. Six ft. block wall fences are not allowed in the front yard so he applied for a Variance. He could get the pool permit but cannot fill the pool with water until the fence is built.

MRS. SEGRETTI stated this is what they are trying to clear up. I know there is a law somewhere that you have to have the pool guarded some way to keep the children out of it.

CHAIRMAN DUNCAN asked what would be the legal height for where he wants to put this fence?

MR. FITZGERALD stated the pool only requires a four ft. barrier.

MR. CANUL asked if they had a five ft. hedge here before and now want to have a block wall, what is the difference?

MR. CONRAD ALEXANDER, 1708 South 7th, appeared in protest. I used to live at 1709 Park Paseo, and it was always a hazard. When the shrubs were there, it was very hazardous. We got after Mr. Snyder and after six or seven months, he decided to tear it down. It is impossible to see around there. When I backed out of the driveway, I had to look into a window from another house for a reflection. There are no sidewalks here and a lot of senior citizens.

MR. MILLER asked if the hedges were close to the street?

MR. ALEXANDER replied yes. I know there were many times when I almost got it. I think the six ft. fence setback five feet would be just as bad as the hedges. I lived there for 2½ years.

MR. SNYDER stated he is speaking about the hedge, but the fence will be five feet back off the street. I can assure you there won't be any traffic problem here.

MR. CANUL asked if he could put a 4 ft. barrier fence in here?

MR. FITZGERALD stated he cannot build a four ft. solid block fence; he must have fifty percent open above two feet.

MR. NULL stated we are talking about a Variance. There is no rear yard; the ordinance says in the front yard you will not have a wall more than four feet high and the top two feet must be 50% open.

MR. CANUL asked if he could put a four ft. solid block wall around the pool?

MR. NULL replied no because it is in the front yard.

MR. SNYDER indicated that the contractor had told him this, and he has been waiting since May.

MRS. SNYDER stated that they would not have any privacy if they are not allowed the wall. The contractor has put us in a terrible bind.

CHAIRMAN DUNCAN asked if anyone else wished to be heard, there being no one he declared the public hearing closed.

MRS. SEGRETTI made a Motion for DENIAL of V-67-76.

Voting was as follows:

Mrs. Segretti - yes
Chairman Duncan - yes
Mr. Miller - no
Mr. Canul - no

Motion for DENIAL failed with a 2-2 vote.

MR. NULL stated to the Board that with a split vote they may want to hold it in abeyance for one month pending a complete board.

MRS. SEGRETTI made a Motion to hold V-67-76 in ABEYANCE for one month.

Voting was as follows:

Mrs. Segretti - yes
Mr. Miller - yes
Chairman Duncan - yes
Mr. Canul - yes

Motion to hold this item in ABEYANCE carried unanimously.

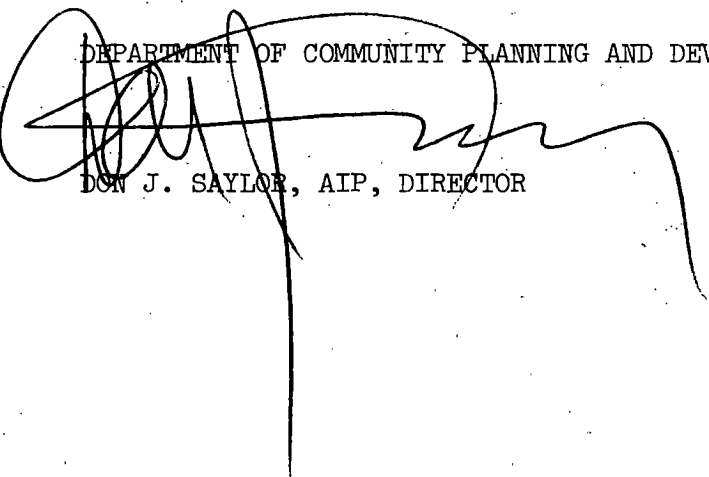
DIRECTOR'S BUSINESS:

CHAIRMAN DUNCAN stated that the Board must change the meeting date of both the November and December meetings. He made a suggestion that the meetings be moved up to the third Thursday of each month, being the 18th of November and the 16th of December. Everyone was in favor.

ADJOURNMENT:

There being no further business the meeting was adjourned at 11:05 P.M.

DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT


DON J. SAYLOR, AIP, DIRECTOR

DJS:bjc