

BILL NO. 2010-16

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code 17.04, the Pahrump Regional Planning District Zoning Regulations, by amending Section 17.04.950 governing *Site Development Plan Review and Approval Procedures*, and other matters properly related thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE 17.04, THE PAHRUMP REGIONAL PLANNING DISTRICT ZONING REGULATIONS, BY AMENDING SECTION 17.04.950 GOVERNING SITE DEVELOPMENT PLAN REVIEW AND APPROVAL PROCEDURES, AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety and the general welfare of the residents of Nye County, the Nye County Board of County Commissioners (Board) is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

WHEREAS, on July 18, 2000, the Board adopted Ordinance 229 establishing Title 17 of the Nye County Code and adding Section 17.04, which provides regulations concerning zoning districts, variances, special exceptions and conditional use permits within the Pahrump Regional Planning District (PRPD); and

WHEREAS, on April 5, 2005, the Board adopted Ordinance 299 amending Title 17, Section 17.04 of the Nye County Code, to require the review and approval of a Site Development Plan application prior to new commercial and industrial development within the Pahrump Regional Planning District; and

WHEREAS, several improvements to Section 17.04.950 of the Nye County Code governing *Site Development Plan Review and Approval Procedures* have been identified which will increase the efficiency of the development review process within the PRPD;

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith within the Pahrump Regional Planning District, the following amendments and regulations:

NYE COUNTY CODE SECTION 17.04.950 IS HEREBY DELETED IN ITS ENTIRETY, AND IS REPLACED WITH THE FOLLOWING NEW SECTION 17.04.950:

ARTICLE IX: SITE DEVELOPMENT PLAN REVIEW AND APPROVAL PROCEDURES

17.04.950 COMMERCIAL/INDUSTRIAL SITE DEVELOPMENT PLAN PROCEDURES

A. Intent—Generally.

1. Required: An approved and certified Site Development Plan shall be required prior to the issuance of any building permit, certificate of occupancy, or other construction or development permit for the following development activities within the Pahrump Regional Planning District (PRPD):
 - a. New development located outside of single-family residential zones;
 - b. New development authorized under an approved Conditional Use Permit;
 - c. New construction of churches, public and private schools, public facilities and government buildings; and
 - d. Any expansion of a legally grandfathered use or building meeting the criteria set forth in §17.04.905 of this Title.

B. **Scope:** The provisions of this Chapter shall apply to all new or expanded commercial, industrial, institutional, mixed-use or multi-family residential development. Communications towers, utility structures, and renewable energy mechanisms not associated with an energy production facility are exempt.

C. **Definitions:** For the purposes of this Chapter, the following definitions shall apply:

Adequate Public Facilities – Those public facilities or services as described in the *Adequate Public Facilities Plan and Policy for the Pahrump Regional Planning District* which meet established minimum standards specified therein.

Administrative Exception – A deviation from Site Development Plan application time limits, schedules, or requirements, as outlined under this Chapter, that is granted by the Zoning Administrator upon the conclusion that such a grant will be in the public's best interest and will not compromise the spirit and intent of this Title.

Alternative Review Schedule – A deviation from the technical review schedule for a Category-I Site Development Plan application that is less stringent than that which is outlined under this Chapter.

Approved Site Development Plan – A Final Determination that a Site Development Plan application is eligible for Certification; conditions deemed necessary and appropriate to carry out the purposes of this Title may be attached to an Approved Site Development Plan.

Business Day or Work Day – Any day Monday through Friday, County-recognized holidays excluded.

Calendar Day – A 24-hour day reckoned from midnight to midnight as denoted on a calendar.

Certification of a Site Development Plan – An official administrative endorsement that: (a) ratifies the Final Determination of the Technical Review Group; (b) confirms that a proposed development meets minimum development requirements, and; (c) authorizes the issuance of construction and grading permits for the proposed development.

Deficient Site Development Plan – A determination that a Site Development Plan is ineligible for Certification due to observed errors, omissions or flaws that require correction to the initial or revised application submittal.

Determination – A decision issued by a member of the Technical Review Group following an examination of a Site Development Plan application.

Development Standard or Development Requirement – Refer to “Development Regulation” in §17.04.110 of this Title.

Denied Site Development Plan – A Final Determination that a Site Development Plan application is ineligible for Certification because either: (a) the proposed development outlined in the application does not meet minimum development requirements or; (b) the applicant did not comply with the technical review procedures and schedules set forth in this Chapter.

Electronic Copy – An electronic or digital copy of a component that is necessary to the review of a Site Development Plan application; examples of this type of media may include, but are not limited to, *.pdf files (portable document format created from a source document or electronically scanned image), *.dwg and *.dwf files (Autodesk CAD files), or *.dgn files (Micro-Station files).

Expedited Review Schedule – A deviation from the technical review schedule for a Category-I Site Development Plan application that places more stringent timelines on both the Technical Review Group and the applicant to facilitate the accelerated progress of an application.

Extension of Time – A deviation from time limits imposed on either an active Site Development Plan application or an established entitlement which provides for additional time beyond that outlined under this Chapter to carry out the purposes of the application or entitlement.

Final Determination – A conclusion issued by a member of the Technical Review Group regarding the eligibility of a Site Development Plan application for Certification, thereby completing the technical review process.

Preliminary Application Assessment – A courtesy evaluation of a pending Site Development Plan application by the Technical Review Group prior to its formal submittal in order to promote efficiency during the application process. The intent of this process is to identify potential deficiencies and problems, categorize the pending application, and evaluate the need for an alternative technical review schedule. The Assessment shall have substantial bearing on the technical review of the formal application.

Site Development Plan Application – An application to review either: (a) new or redeveloping non-residential, multi-family, mixed-use or institutional development, or; (b) legally grandfathered uses or buildings subject to a proposed expansion or modification, in order to determine its eligibility for certain development entitlements.

Technical Review Group – The primary group that consists of a definitive core membership composed of members of the Nye County Planning Department, Nye County Public Works Department, Pahrump Building and Safety Department and the Pahrump Valley Fire/Rescue Department and is responsible for: (a) the technical review and evaluation of a Site Development Plan application to determine its conformance to minimum local and statutory development regulations, the Master Plan and any associated County-adopted development plans, and any conditions imposed by an authorized governmental body or court of law, and; (b) the final determination on the eligibility of the application for Certification pursuant to obtaining subsequent development entitlements.

- D. **Authority to Review:** A Site Development Plan application shall be submitted to the Nye County Planning Department, and the application shall be reviewed and approved by the Technical Review Group. Other agencies or utility and service providers may offer supplemental comment at the discretion of the Technical Review Group.
- E. **Administrative Exceptions:** A request for an Administrative Exception to deviate from time limits, schedules, or application submittal requirements outlined in this Chapter must be submitted in writing to the Nye County Planning Department and must include both an explanation of the circumstances prompting the request and a justification for granting the relief.
- F. **Application Categories:** Site Development Plan applications shall be categorized as follows:
 - 1. Category-I: This application category shall apply to all new development located outside of the single-family zones, and any permissive redevelopment of existing improved property located outside of the single-family zones.
 - 2. Category-II: This application category is intended to provide discretionary administrative relief from Category-I requirements in response to identifiable peculiarities or unusual circumstances specific to a new permissive development or a permissive redevelopment project.

- a. Under no circumstances shall a proposed Site Development Plan application requiring either a waiver from development standards or Conditional Use Permit approval be processed as a Category-II application.
- b. The Zoning Administrator shall grant an Administrative Exception to allow a Category-II application to facilitate new permissive development in accordance with the following findings:
 - i. Approval of a Category-II application will neither create adverse area impacts nor compromise public health and safety, and;
 - ii. Identifiable constraints, conditions or circumstances unique to either the project or the surrounding area may render certain requirements of a Category-I application either excessive or disproportionate, and;
 - iii. Additional amenities and design standards in excess of minimum requirements, other than the promise for increased employment and additional tax revenues, are being offered to advance the Master Plan, enhance the surrounding area and benefit the overall community, and;
 - iv. All department heads representative of the core Technical Review Group concur with the granting of such a request.
- c. The Zoning Administrator shall grant an Administrative Exception to allow a Category-II application to facilitate the permissive redevelopment of existing improved property in accordance with the following findings:
 - i. Approval of a Category-II application will neither create adverse area impacts nor compromise public health and safety, and;
 - ii. Minimal to no site modifications will be necessary to bring the existing development into compliance with current development and design standards;
 - iii. The amount of repair, modification or expansion of an existing building is less than fifty percent (50%) of the site's existing gross floor area, and;
 - iv. All department heads representative of the core Technical Review Group concur with the granting of such a request.

3. Category-III: This application category is intended to provide discretionary relief from Category-I requirements and may be requested in conjunction with a Conditional Use Permit application. This type of application shall be subject to any conditions and alternative review schedules that the Pahrump Regional Planning Commission (RPC) deems necessary and appropriate.

G. Application and Review Procedures: The following application and review procedures for Site Development Plan applications shall apply:

1. Preliminary Application Assessment: A prospective applicant may request the Technical Review Group to conduct one (1) Preliminary Application Assessment of a pending application prior to its formal submittal.
2. Completeness Review: As provided for under NRS 278.02327, and upon receipt of a new Site Development Plan application, the Technical Review Group shall conduct a completeness review of the application on the date of its submittal to determine if the submitted application contains the items necessary to conduct a technical review.
 - a. Application intake times and guidelines shall be determined by the Zoning Administrator or appointed designee.
 - b. Completeness review of a new application shall not involve any review for accuracy or veracity of information contained within the application.
 - c. An application shall be rejected if any required item is either missing or incomplete, or if any required fees are not paid in full. An applicant with a rejected application must resubmit in accordance with application intake times and guidelines.
 - d. An Administrative Exception to grant an alternative technical review schedule for a Category-I application may be requested if extraordinary or exceptional circumstances could potentially compromise the ability of either the Technical Review Group or the applicant to carry out the provisions of this Chapter.
 - i. The Zoning Administrator may grant an Administrative Exception for the expedited review of a Category-I application provided that the Technical Review Group has a minimum of three (3) business days notice of a pending application prior to its submittal.
 - ii. Category-II and III applications shall not be eligible for an Administrative Exception to allow an alternative review schedule.
3. Submittal Requirements: The following provisions shall govern the initial submittal of a Category-I Site Development Plan application.
 - a. A complete Category-I Site Development Plan application shall consist of the following documents:

- i. One (1) completed Site Development Plan application form and any fees necessary to process the application;
- ii. One (1) letter of intent providing a description of the proposed development;
- iii. One (1) Cover Sheet, and one (1) electronic copy;
- iv. One (1) or more sheets for General and Special Notes, and one (1) electronic copy;
- v. One (1) Site Design and Layout Plan, and one (1) electronic copy;
- vi. One (1) Site Landscaping Plan, and one (1) electronic copy;
- vii. One (1) preliminary Site Grading and Drainage Plan for any required on-site and off-site public improvements, and one (1) geo-technical report specific to those improvements, if necessary. All documents shall be stamped with the professional engineer's official stamp, signed and dated. One (1) electronic copy of these documents shall be furnished.
 - a. Grading and Drainage Plan shall follow Site Development Plan Submittal requirements stipulated in Nye County Code Section 17.04.950.
 - b. Either 45,000 square feet or 70% of impervious coverage shall require a Drainage Study (with comments of approval to follow submission).
 - c. Grading and Drainage Plan shall consist of the submission of an Engineered Plan and must be reviewed for consideration of approval by the Public Works Department.
 - d. Every development shall adhere to Nevada Drainage Law as it pertains to honoring the Natural Drainage Flow Path.
- viii. One (1) preliminary Site Utilities Layout Plan, and one (1) electronic copy;
- ix. One (1) set of Building Elevations showing proposed architectural details, building and site lighting, on-premise signage and building heights, and one (1) electronic copy;
- x. One (1) letter of affidavit attesting that adequate public facilities are already in place to support the proposed development, if necessary, and;
- xi. Either a traffic study-related document, along with electronic copies thereof, or fees-in-lieu-of as prescribed in Section 3.04 of the County's *Guidelines for Design and Review of Development Engineering Submissions*.

- xii. Submittal fees (see applicable Planning & Public Works Fee Schedules).
- xiii. All Site Development Plans shall conform to the County's *Guidelines for Design and Review of Development Engineering Submissions*.

- b. The applicant shall furnish the Technical Review Group with a minimum of five (5) paper copies of any required cover sheets, plans and elevations.
- c. The Technical Review Group shall establish guidelines regarding both document and application format and composition as they may affect both the Completeness Review and Technical Review processes.
 - i. Proposed changes to document and application guidelines shall be publicly announced during a regular meeting of the RPC and shall go into effect after ten (10) business days from the date of the announcement.
 - ii. Any person aggrieved by an announced change in format and composition, as allowed under this Chapter, may request further review and possible direction from the Regional Planning Commission regarding the change only during the meeting in which the change is announced.

- 4. Technical Review: A new Site Development Plan application shall be accepted, a case identification number shall be assigned to the application, and technical review of the application shall proceed once it has been deemed complete.
 - a. The 3-2-1 Review Schedule – The technical review of a Site Development Plan application that does not require a waiver to development standards shall be conducted, and the applicant shall be duly notified of a determination, in accordance with the following schedule:
 - i. Initial technical review cycle – A review period consisting of fifteen (15) business days starting from the date that the application is deemed complete (*equivalent to three [3] weeks*);
 - ii. Second technical review cycle – A review period consisting of ten (10) business days starting from the date that revisions in response to staff comments are received from the applicant (*equivalent to two [2] weeks*);
 - iii. Final technical review cycle – A review period consisting of five (5) business days starting from the date that final revisions in response to staff comments are received from the applicant (*equivalent to one [1] week*).

- b. If a Site Development Plan application requires a waiver to development standards, then any component of the application subject to Planning Department technical review shall be subject to approval by the RPC. The remaining balance of the application shall be submitted and reviewed in accordance with the prescribed technical review schedule once waiver approval from the RPC has been obtained.
- c. The Technical Review Group may request the applicant to provide additional data, maps, plans or statements that are deemed necessary and appropriate to exercise an adequate review of the application in accordance with this Chapter.
- d. Any revisions of a Site Development Plan in response to technical review comments shall not be subject to another completeness review.
- e. All determinations issued by the Technical Review Group shall be classified as either “Deficient,” “Approved,” “Approved with Conditions” or “Denied.”
- f. If any core member of the Technical Review Group fails to issue an appropriate determination in accordance with the prescribed technical review schedule, then the portion of the overall Site Development Plan application for which the core member is responsible may be deemed “Approved” upon agreement of the other group members.
- g. Any applicant-driven changes during the review process that introduce project phasing or substantial changes in land use, site design or layout shall restart the review process. Any necessary additional fees shall be paid, and the application shall be reviewed under the development standards and submittal requirements in place when the application was restarted. The application lifespan shall be renewed.
- h. Upon obtaining Final Determinations of “Approved” from each core member of the Technical Review Group, the applicant shall submit the final Site Development Plan to the Nye County Planning Department for Certification within a period not to exceed five (5) working days, or else both the approval and the application shall be declared null and void.
- i. A Site Development Plan application shall expire, and shall become null and void for all purposes, if it is not approved and certified in accordance with this Chapter within one hundred and eighty (180) calendar days from the date the application was deemed complete.
- j. An applicant may request an Administrative Exception to grant a one-time extension of an active application within ten (10) days from the date of expiration. A time extension may be requested for up to one hundred and eighty (180) days beyond the original expiration date. If granted, the review schedule for the extended application shall be

subject to the discretion of the Zoning Administrator. No subsequent requests for additional Exceptions shall be granted.

H. **Appellate Rights:** An applicant who is aggrieved by a Final Determination of the Technical Review Group may submit a written request to the Nye County Planning Department for appellate relief from the RPC within five (5) calendar days from the date of the Final Determination, or else the Final Determination shall stand.

1. Once a written request for appellate relief has been received, the request shall be scheduled for the next available public hearing of the RPC in accordance with established deadlines and Department policies.
2. Upon the consideration of the request for appellate relief, the RPC may affirm, reverse or modify the Final Determination of the Technical Review Group, or it may remand the application back to the Technical Review Group for further assessment.
3. The RPC may attach additional conditions to the Final Determination of the Technical Review Group if deemed necessary and appropriate to advance the Master Plan and benefit the overall community.

I. **Entitlements of Certification:** A Certified Site Development Plan shall expire, and shall become null and void for all purposes, if construction or grading permits necessary to the execution of the Certified application are not issued within one (1) year from the date of certification.

1. The holder of a Certified Site Development Plan may request an Administrative Exception to grant a one (1) time extension of up to one (1) year beyond the original expiration date no later than thirty (30) days from the date of expiration.
2. A Certified Site Development Plan shall apply to the land, buildings or use for which it was issued, and not to a particular person. The use shall be allowed to continue should a transfer in ownership of the subject property occur.

J. **Withdrawal of Application:** A Site Development Plan application may be withdrawn by the applicant at any time prior to a final determination without any limitations on subsequent application submittals. Requests for a refund of any application-related fees shall be submitted in writing to the Nye County Planning Department and shall be subject to administrative discretion.

K. **Administrative Amendments:** An Administrative Amendment to an approved Site Development Plan application may be submitted to the Nye County Planning Department either to rectify minor traffic, utility, or grading and drainage issues observed in the field or to respond to minor changes in the expectations of the approved Plan.

1. The Zoning Administrator may approve such amendments, provided that:

- a. The proposed amendment, and any successive amendment requests, do not result in an increase in overall gross floor area that exceeds twenty-five percent (25%) of the approved original Plan;
 - b. The proposed amendment does not result in either a parking or landscaping deficit, significant changes in the overall building configurations of the approved Plan, significant changes to the internal circulation of the approved Plan, or adverse area traffic patterns;
 - c. The proposed amendment does not require a waiver to development standards as outlined in the Nye County Code;
 - d. The proposed amendment is not in response to a change in land uses as stated in the approved Plan.
2. Any proposed amendments to an approved Plan that do not meet all of the specified thresholds shall require a new Site Development Plan application.
3. The Zoning Administrator shall establish the guidelines and review procedures necessary to process an Administrative Amendment to an approved Plan.

L. Sunset Provisions: The following provisions shall govern all outstanding Site Development Plan applications that were submitted between April 5, 2005 and the effective date of this revised Chapter.

1. Any active Site Development Plan applications that have not been approved shall become null and void after December 31, 2011.
2. Any approved Site Development Plan applications that have not been implemented through the issuance and maintenance of construction or grading permits shall become null and void after December 31, 2011. The Nye County Planning Department shall provide written notification of a pending expiration to each holder of an approved application no less than ninety (90) days prior to the expiration date
3. An Administrative Exception to grant one (1) time extension of up to one (1) year beyond the expiration dates established herein for any outstanding Site Development Plan application may be requested no later than thirty (30) days prior to the date of expiration.

Effective Date – This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the _____ day of _____, 2011.

Proposed on the _____ day of _____, 2011

Proposed by: Commissioner _____

Adopted on the _____ day of _____, 2011

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____

Gary Hollis, Chairman
Nye County Board of
County Commissioners

ATTEST: _____

Sandra "Sam" Merlino
Clerk and Ex-Officio
Clerk of the Board