



STOREY COUNTY PLANNING COMMISSION

Meeting

Thursday September 17, 2020 6:00 p.m.
26 South B Street, District Courtroom, Via Zoom
Virginia City, Nevada

MEETING MINUTES

CHAIRMAN: Jim Hindle

VICE-CHAIRMAN: Summer Pellett

COMMISSIONERS:

Larry Prater, Kris Thompson, Jim Collins, Adrienne Baugh, Bryan Staples

1. **Call to Order:** The meeting was called to order by the Chairman at 6:00 P.M.
2. **Roll Call via Zoom:** Jim Hindle, Adrienne Baugh, Kris Thompson, Summer Pellett, Jim Collins, Bryan Staples
Absent: Larry Prater

Also Present: Senior Planner Kathy Canfield, County Manager Austin Osborne, Special Counsel Bob Morris, County Commissioner Jay Carmona, County Commissioner Lance Gilman and Sheriff Antinoro.

3. **Pledge of Allegiance:** The Chairman led the Pledge of Allegiance.
4. **Discussion/Possible Action:** Approval of Agenda for September 17, 2020.

Commissioner Thompson asked that item 11 Board Comments be placed after agenda item 4.

Motion: Approval of Agenda with amendment that item 11 be heard after item 4 for September 17, 2020,
Action: Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Baugh, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

No Public Comment.

See item 11.

5. **Discussion Only/No Possible Action:** Public workshop on a draft ordinance amending Storey County Code to add zoning regulations for brothels by adding Chapter 17.52 B Brothel zone, amending Chapter 17.08 by adding B Brothel to the list of regulatory zones, and to amend Chapter 5.16 to require zoning approval by the board of county commissioners. Additional information including, but not limited to, draft text may be obtained from the Planning Department at 775.847.1144 or planning@storeycounty.org, or viewed online at <http://storeycounty.org/517/Updates>. In addition to the provisions of the NRS, any person may complete and return to the planning commission a statement supporting or opposing the proposed amendments to the county code and/or zoning ordinance. These items may be heard and discussed together if determined appropriate by the planning commission.

Commissioner Thompson: Stated that after a discussion with the Deputy D.A. the past couple of weeks; disclosed that he worked as a consultant for two of Lance Gilman's companies and while he has no pecuniary interest will recuse himself from this item and join the public.

County Manager Osborne: Special Counsel Bob Morris is also on the call tonight and Sheriff Antinoro who has been involved in this matter as well. This is a draft ordinance that has been in the works for quite some time. Its main purpose is to correct existing and past issues that have happened across the county with zoning in this area with regards to usage and placement and the zoning maps and proper zoning classifications that would occur for current uses as well as any potential future uses. In the draft ordinance there would be an allowance of up to five brothels in the county. The current ordinance is also five, that is not changing, so there is the potential for more (brothel) uses in the county. This ordinance attempts to make the necessary foundation in both the zoning as well as other codes to address that and allow for it. Osborne said that it is important to note that what you have in front of you are two ordinances. One is a B (Brothel) zone ordinance proposal and the other are regulatory codes that have nothing to do with zoning. The planning commission only has jurisdiction on the zoning portion but both of the ordinances were provided because there is enough interface between the regulatory element as well as the zoning that you can't understand one without the other. Osborne gave an analogy; think of a gaming license, one would be able to buy a gaming property in say Reno or Sparks or wherever and that property would be zoned Commercial and would have a list of all kinds of commercial uses. "Casino" would be one of the listed uses. If you were to get a gaming license, then you would be able to place a casino on that property as well as use it for some of the other listed uses. If you did not get a gaming license you could still use the property for non-casino commercial uses such as a grocery store, etc. The way the Brothel zone is put together is like that. It is a Brothel zone but if the person who buys a property and converts it to Brothel zoning, wherever that might be within the limitations allowed, that person could get a license to operate a brothel from the licensing board (that is the regulatory ordinance part), then go ahead and install a brothel on the property. If the person were unable to get a license for whatever reason, the person could continue to use the property zoned Brothel and utilize the list of commercial uses. There is a residential element to the Brothel zone and that is only if there is a brothel license issued to the person who owns the property. The residents can only be the owner of the brothel, employees and independent contractors of the brothel and as such. There would not be anybody else allowed. Osborne said he did not have anything else to add and introduced Special Counsel Bob Morris to answer questions.

Special Counsel Bob Morris: Gave a bit of history: In probably 2015 the county did a major overhaul of the brothel ordinance. After that was done it was discovered that there were still issues that needed to be resolved. Worked for a while on fixing the existing code to take care of these problems and that did not quite work. Looked at creating an overlay zone for brothels and worked on that for a while but decided that it was not quite right either. Finally ended up doing just doing a Brothel zoning district. Seemed like it would work for most of the issues. One of the things we (county) were trying to figure out was if we had future brothels come in, how would we want to regulate them. The idea was that we would create a zone for it (brothels) and they would go through the regular process of a zone change to create the district for the brothel. Morris said he asked Austin to include some of the regulatory ordinance in order to show the existing law (NRS) and the existing code. Then have the licensing board, which is the board of county commissioners and the sheriff, be responsible for the placement of the brothels. The idea was that we would try to regulate the actual placement of the brothels as a zoning issue instead of a regulatory issue. In providing the regulatory ordinance, he wanted to show the existing method of placing a brothel. Right now it is pretty much just "spot zoning" under the existing code. Morris said that in looking at other counties, nobody really has a very good example of how you would do zoning for brothels. The other problem that we had was how to integrate the existing brothel into this new proposed Brothel zone. Basically, they are legally created and if this ordinance is passed it will become a non-conforming use. We (county) wanted them (existing brothel) to have the opportunity to do a zone change if they want. They would not be able to use any of these new uses that are proposed without going through a zone change.

Chairman Hindle asked for board comments or questions.

Commissioner Pellett: Asked what was it about a "Brothel Overlay" district that would not work.

Special Counsel Bob Morris: The problem we found with an overlay zone is that there is usually a condition that has to be met to maintain the zone. It was decided after significant discussion that hard zoning was a better way to do it.

County Manager Austin Osborne: There is not “boiler plate” brothel ordinance language that you can simply get from the APA (American Planning Association). This really has had to be built absolutely from scratch. Bob is correct, there are some other counties that have some zoning and there have been other ways of addressing brothels in the past. They all come with very unique issues like the ones we have under our current regulatory environment. There are too many issues to address and have it clean. When an overlay is done, what happens when the person (business) leaves and it goes back to a regular use.

What if the overlay is over another zone that does not allow the uses that are built on the property? Does it become legally non-conforming, does it become illegal? The facility in the future doesn't necessarily have to be used as a brothel. It could be used as a resort or a lot of other things. The overlay created all kinds of questions about whether a current existing or a future property were to not be used anymore, what happens when that brothel zone overlay dissolves and the property goes to underlying zoning? Another question that came up with having an overlay zone is “What happens if a brothel property is developed and then the owner no longer can maintain a license or no longer wants to maintain a brothel license but wants to create a resort? If state legislation changed and brothels were no longer allowed, what would happen to the property, the investment, buildings, etc.” Osborne said that these were just some of the challenges that they ran into with a potential overlay zone. Decided the best way to deal with this would be to follow a regular plain zoning ordinance like you would any other zone. Osborne said that after deciding to do this as a brothel zone rather than an overlay, the issues with the existing brothel were addressed. Future development of properties and maintaining of those properties, buildings, structures and investments were resolved utilizing hard zoning. The licensing board can deal with all of the regulatory activity as far as what's happening with the independent contractors and the health aspect, licensing, background, all those sorts of things.

Commissioner Pellett: Said that she wonders how the Brothel zoning fits into the Master Plan. Thinks an overlay zone would be more appropriate. If a zone change comes forward, the planning commission and county commission are going to make sure that it is in conformance with the Master Plan. Pellett stated that when you look at the language related to brothels in the Master Plan within the Mustang Area, just don't see how we can approve a rezoning with the current language that's in the Master Plan related to brothels.

County Manager Osborne: Said the county is close to the five year master plan update and if we are able to get the zoning and things addressed for the existing properties as far as the maps and what applies there exists, the master plan does discuss areas of the county where brothels do not belong and this ordinance also addresses that as well. Before any new brothels are proposed or brothel zones are proposed in the county, for the map process (not touching the maps during this process); suggest that the master plan update come first and the master plan would have a discussion on how to address placement of brothel zones across the county.

Chairman Hindle asked for Public Comment:

Clay Mitchell, VC resident: Commented that if this is spot zoning that is basically allowed anywhere in the county, except for the restrictions that the county has for brothels meaning not within a mile of schools or churches, the master plan is a well thought out organization of zoning designations. Could anyone apply for a zone change to Brothel as long as they meet the requirements? Asked if the decision for the zone change be exclusively with the commissioners and not by the brothel licensing board. Which means that the Sheriff would not be involved in the decision as far as the placement of a brothel.

Said he believes that the current uses are non-conforming because the zoning is I2. Wondering how this cleans up the current commercial and residential uses that are going on out there. Thinks that most of the existing uses are commercial and that commercial zoning makes the most sense with whatever brothel licensing or overlay is required.

Chairman Hindle: Asked County Manager Osborne how interim requests for a zone change to Brothel would be handled in between the approval of the new ordinance and the master plan update.

County Manager Osborne: Deferred to Special Counsel Bob Morris for the regulatory questions.

Special Counsel Bob Morris: Said he would assume that a master plan amendment would happen at some point. The zone change to Brothel would be a standard zone change through the planning commission and the county commission.

The regulatory part of the ordinance deals with the licensing, operation and how work cards are handled. That would all be done by the licensing board. The idea is that if a new brothel were to come in they would have to ask for a Brothel zone amendment first and then once they got that, they would have to then seek a license for a brothel. In NRS in the section that sets up the licensing board includes the Sheriff, which is for the reasons that it is a serious health, safety and welfare sort of business. The licensing goes through the Sheriff's Department. Morris said that the reason he thinks that setting up a separate zone is a good idea is that the county can make a decision as to where they want this kind of a use. Don't think it has really the same criteria for the decision that the licensing board has. There is a lot of experience and knowledge in the planning commission and the board as to where they might want to place a brothel.

County Manager Osborne: Stated that having a brothel as an allowed use in a commercial zone is problematic because for instance the county has a commercial zone in Lockwood and we don't want a brothel in Lockwood. Commercial zones can go anywhere. There are other places in the county where a property owner can ask to utilize their property for a commercial use, but we wouldn't want a brothel in those areas. There are also commercial designated properties in TRI. Brothels do not belong in the commercial zone for that reason. Osborne also made a correction to a comment that was made about the existing brothel property being zoned I2 (Heavy Industrial). The county does not believe this (existing use zoning) to be I2. There are some map corrections to look at.

Sam Toll, Gold Hill resident: Commented that the questions Clay Mitchell raised and the answers given added a bit more confusion to what it is the county is trying to accomplish here. Asked Bob Morris about the analysis with other county zoning ordinances and how the county came up with the proposed zoning ordinance.

Special Counsel Bob Morris: Answered that it has been awhile, but at the beginning of this process stated that he did look at other counties that had brothels to see what kind of zoning they had. There is actually just one sentence in the Lyon County code about brothels and their placement. Morris said he didn't find much in other jurisdictions as far as true zoning.

Sam Toll, Gold Hill resident: Said he too looked at Lyon County's zoning and found it to be stark. In looking at the allowed uses in the proposed ordinance there is a wide variety of types of things allowed such as wedding chapels, barbers, veterinary services and all different kinds of things that could go on with the brothel. Asked why not just keep it real simple. We have the master plan that allows the county to determine where it is appropriate to place a brothel and where it is not. Said that as Mr. Mitchell mentioned, the brothel is a commercial venture. Asked why not just rezone the existing brothel as commercial and then should a future brothel come into play, have them go through the special use permit (SUP) process like anyone else and let the planning commission do their job and vet the proposed location then approve or deny the SUP based on the circumstances of a proposed future brothel installation.

Special Counsel Bob Morris: Said that there are quite a few of the commercial uses in the proposed brothel zone, and this is the kind of use that the county does want to have tight control over. To just allow it in any commercial zone does not give enough regulatory power for the board to keep them (brothels) in areas that are appropriate.

County Manager Osborne: Reiterated what Bob Morris said, that the county does not want brothels to be a standard special use permit in any commercial zone. Somebody could in Lockwood apply for one in the commercial zone and under the right circumstances be granted that. There may not nearly the amount of scrutiny with a special use permit as there might be with a zone change request. Regarding the list of commercial uses that are in the proposed brothel zone, a lot of the time when you have a brothel including the existing one,

many of the other uses are going on as well. The existing brothel property does have a museum, bar, restaurant, and a myriad of different uses. The potential for this brothel or a future brothel as a resort to be potentially having all of those uses is likely. There is potential for having a gift shop or a convenience store, etc. With commercial allowed uses, there is the potential for a self-contained resort. If someone purchased a brothel zone property or applied for a zone change to Brothel but did not get their brothel license, all of these commercial uses would still be allowed just not the brothel. The minute the owner is issued a brothel license everything on the property becomes adult only and would only be associated with the brothel, so none of the existing uses would be “under 18” at that point.

Clay Mitchell, VC resident: Commented that personally he would like to see the Sheriff involved or at least consulted on placement of a brothel. Said he thinks it is a good idea to have the planning commission involved in this process as well, but to not have the Sheriff come in until after potentially the zoning has been designated seems problematic. Mitchell asked if there is any intention to “pre-zone” any land prior to the master plan being amended or would it only be when someone applies (zone change request)?

County Manager Osborne: Answered that there will not be any pre-zoning. Zone changes are generally done by application by an individual property owner. Confirmed a comment made by Chairman Hindle that a brothel zone request would always be by application and come through the planning commission with recommendation to the board of county commissioners. All zone change to Brothel zone requests would come through the planning commission and county commission. Once the property is zoned Brothel the actual licensing for the Brothel would only go through the licensing board.

Commissioner Pellett: Said she is still more a fan of the overlay versus the direct zoning of the land because when it’s the applicant requesting that their parcel be zoned that specific thing (Brothel) and the county hasn’t utilized that zoning elsewhere, it seems like spot zoning. Commented that the county is saying that there are other uses that can’t be within one mile of a Brothel zone but you have other uses allowed in the Brothel zone. Concerned that the county may be prohibiting other uses such as residential, churches, schools, parks etc. from being located within a mile of a Brothel zone even if the property is not being used as a brothel? Would prefer that an “overlay” be requested by an applicant and the parcel still retain the underlying zoning. If the “overlay” was no longer needed at some point then a zone change request could be applied for to remove the “overlay”.

County Manager Osborne: Said there is language in here that’s written that if a Brothel zone were to be created at some random place in the county, that it would not preclude the neighboring properties from building within a mile of that zone.

Special Counsel Bob Morris: Said that initially he was a proponent of the “overlay” and this was discussed quite a bit. Looking at all the loose ends of both procedures it was just easier to have hard zoning than conditional zoning (zone with strings attached to it).

Discussion continued between the public, commission, staff and counsel regarding the pros and cons of an “overlay” versus hard zoning and the potential effects to surrounding properties and their zoning rights.

Commissioner Baugh: Said that someone buying a property in the area near a Brothel zone would know what the zoning is when they “apply” and would know this prior to developing the property.

6. Discussion/Possible Action: Determination of next planning commission meeting.

Motion: Next planning commission meeting to be held on October 1, 2020 at 6:00 P.M. at the Storey County Courthouse, Virginia City, Nevada, Via Zoom, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Thompson, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

No Public Comment

7. Discussion/Possible Action: Approval of claims – None

8. Correspondence (No Action) - None

9. Public Comment (No Action) - None

10. Staff (No Action) - Senior Planner Canfield talked about this week we got the official notification from FEMA regarding the National Flood Insurance Program (NFIP) community rating system. The county was a class 8 and still maintained that after the audit. That allows for a 10% discount for flood insurance. We also received notification from FEMA that they are beginning to study some drainages along the Truckee River both in Washoe and Storey County. There is one drainage they call the Electric Wash which is the area northeast of Electric Avenue and USA Parkway.

Canfield also mentioned that staff and Commissioner Pellet are having the first meeting to discuss the minimum home size requirement next week.

11. Board Comments (No Action) - Commissioner Thompson told the commission there was a major announcement in today's Reno Gazette Journal concerning Storey County from the new mayor of Sparks Ed Lawson. The previous mayor recently passed away and the paper was interviewing the new mayor in the article. Thompson read a quote from the article "We've kind of ignored the gorilla in the room that is Storey County so it's time that we embrace that and moved out and became more of a partner with Storey County". Thompson stated that what he (Ed Lawson) said in the article is that his priority is putting in a connector road from Spanish Springs into the industrial areas in the north part of Storey County. This has been percolating behind the scenes for quite some time. Sparks has been trying to get about 40,000 acres of BLM property east of Sparks and north of Interstate 80 (I80) for this kind of project. What this would mean is a connector road probably much like USA Parkway going directly out of the industrial areas in the north from the Patrick Interchange and from the USA Parkway interchange would go right in to Spanish Springs meeting in the La Posada corridor. The importance of this is that more than half of the workers in the industrial park (TRI) live north of I80 in Sparks or north Reno. This would give them an option to bypass I80 going west from Patrick. Potentially all that traffic would bypass Lockwood and would greatly reduce the traffic count. This is a great development and Mayor Lawson has been a great partner with Storey County in the past in a variety of positions. The article said that he is committed to this. This is great news for Storey County to hopefully relieve a lot of the traffic issue on I80 near Lockwood.

12. Adjournment (No Action) - The meeting was adjourned at 7:29 pm.

Respectfully Submitted, By Lyndi Renaud