City of Fernley

NEVADA

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Angela Lewis - Vice Chair
Barry Williams Sr. - Commissioner
Cody Wagner - Commissioner
Jacob VanderHeiden - Commissioner
Robert Flores - Commissioner
Jennie McCullar - Commissioner
Julianne White - Alternate

AGENDA
Regular Meeting
Planning Commission
Wednesday, July 8, 2026 • 5:00 PM

Fernley City Council Chambers, 595 Silver Lace Boulevard, Fernley, NV 89408

Zoom information:
Please click the following link to join the webinar: https://us02web.zoom.us/j/82966343247, or one tap mobile: 12532158782, Dial: 669 900 9128, Webinar ID: 829 6634 3247

Public Notice: This agenda has been physically posted in compliance with 241.020 at Fernley City Hall, 595 Silver Lace Blvd. In addition, this agenda has been electronically posted in compliance with NRS 241.020(3) at www.cityoffernley.org and NRS 232.2175 at https://notice.nv.gov/ To obtain further documentation regarding posting, please contact the City Clerk's Office at (775) 784-9830 or cityclerk@cityoffernley.org

Public Comment: Those wishing to address the Planning Commission may submit public comment through the online public comment form, or by sending an email to cityclerk@cityoffernley.org. Comments received prior to 4:00 pm the day of the meeting will be provided to the Planning Commission and added to the record but will not be read during the live meeting. Public comments received after 4 pm the day of the meeting will be included in the record but may not reach commission members before action is taken. Public comment, whether on action items or public comment, is limited to three (3) minutes per person. Unused time may not be reserved by the speaker, nor allocated to another speaker. The public may comment on any matter that is not specifically included on an agenda as an action item or comment on a specific agenda item. Items not included on the agenda cannot be acted upon other than to place them on a future agenda. Additionally, if you wish you can comment in person at the meeting or use the Raise your Hand feature in Zoom (*9 if you are participating via phone).

Accommodations: The Planning Commission and staff will make reasonable efforts to assist and accommodate individuals with disabilities desiring to attend the meeting. Please contact the City Clerk's Office at (775) 784-9830 in advance so that arrangements can be made.

Supporting Material: Staff reports and supporting material for the meeting are available at the City Clerk's Office, and on the City's website at www.cityoffernley.org Pursuant to NRS 241.020(6), supporting material is made available to the general public at the same time it is provided to the City Council.

Order of Business: The presiding officer shall determine the order of the agenda. The Fernley Planning Commission may combine two or more agenda items for consideration; remove an item from the agenda; or delay discussion relating to an item on the agenda at any time. All items are action items unless otherwise noted. Items scheduled to be heard at a specific time will be heard no earlier than the stated time but may be heard later.

1. INTRODUCTORY ITEMS

1.1. Pledge of Allegiance

1.2. Roll Call

1.3. Public Forum

1.4. (For Possible Action) Approval of Agenda

1.5. (Possible Action) Approval of Minutes

2. STAFF REPORTS

2.1. (For Possible Action) Review and discussion of two potential Zoning Code Amendments regulating data centers within the City of Fernley.

3. PUBLIC HEARINGS

A. DISCUSSION WITH PLANNING COMMISSION & STAFF B. PUBLIC INPUT C. ADDITIONAL DISCUSSION WITH PLANNING COMMISSION & STAFF D. COUNCIL ACTION OR DIRECTION TO STAFF

3.1. (For possible action) Discussion and possible action on a Conditional Use Permit (CUP26002) submitted by Pilot Travel Centers LLC proposing a 1,829 square foot expansion to the existing 10,530 square foot travel facility located at 465 W Main Street in a Commercial (C2) zoning district.

3.2. (For Possible Action) Discussion and possible action to recommend that the City Council approve Bill #390 (CA26002), an Ordinance to amend Section 32.02.030 and Section 32.03.050 of the Fernley Development Code to add a definition for a Minor Conditional Use Permit and to add a Minor Conditional Use Permit as an entitlement process.

4. CHAIR AND COMMISSION ITEMS

(SUMMARY OR ACTIVITY REPORTS ON PLANNING ISSUES, ACTIVITIES OR ORGANIZATIONS IN WHICH INDIVIDUAL MEMBERS MAY BE INVOLVED. THIS ITEM IS TO PROVIDE GENERAL INFORMATION TO THE COMMISSION AND PUBLIC. NO DISCUSSION SHALL TAKE PLACE AND NO ACTION WILL BE TAKEN.)

5. PLANNING DIRECTOR ITEMS

(ACTIVITY SUMMARY OR UPDATES ON PROJECTS THAT HAVE BEEN PREVIOUSLY REVIEWED BY THE PLANNING COMMISSION. THIS ITEM IS TO PROVIDE GENERAL INFORMATION TO THE COMMISSION AND PUBLIC. NO DISCUSSION SHALL TAKE PLACE AND NO ACTION WILL BE TAKEN.)

5.1. Update on City Council actions from June 17, 2026.

5.2. General Planning Department updates and announcements.

6. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS

7. PUBLIC FORUM

8. ADJOURNMENT

Next Meeting: August 12th @ 5:00pm

MINUTES OF THE

FERNLEY PLANNING COMMISSION MEETING

MAY 13, 2026

Chairwoman Tessa Garvin called the meeting to order at 5:00 p.m.

1. INTRODUCTORY ITEMS

1.1. Pledge of Allegiance

1.2. Roll Call

Present: Commissioner Jacob Vanderheiden, Commissioner Cody Wagner, Chairwoman Tessa Garvin, Commissioner Angela Lewis, Commissioner Barry Williams, Commissioner Robert Flores, Vice Chair Jenni McCullar, Commissioner Julianne White, City Attorney Aaron Mouritsen, Acting Deputy City Manager Lydia Altick, City Clerk Kim Swanson, Deputy City Clerk Sandy Harris, Planning Director Michele Rambo, Senior Planner Treston Rodriguez, Associate Planner Lisa Warner.

1.3. Public Forum

None at this time

1.4. (For Possible Action) Approval of Agenda

Motion: I MOVE TO APPROVE THE AGENDA. **Action:** Approved, **Moved by:** Commissioner Robert Flores, **Seconded by:** Vice Chairwoman Jenni McCullar. **Vote:** Passed, **Summary**: Yes 7 **Yes:** Vice Chairwoman McCullar, Commissioner Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Chairwoman Garvin, Commissioner Williams

1.5. (Possible Action) Approval of Minutes

Motion: I MOVE TO APPROVE THE PLANNING COMMISSION MEETING MINUTES. **Approved**, **Moved by:** Commissioner Cody Wagner, **Seconded by:** Commissioner Angela Lewis. **Vote:** Passed, **Summary:** Yes 6, Abstained 1. **Yes:** Vice Chairwoman McCullar, Commissioner Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Chairwoman Garvin, **Abstain:** Commissioner Barry Williams.

2. STAFF REPORTS

2.1. (For Possible Action) Discussion and possible action regarding a Waiver application (WVR26001) submitted by HG Construction on behalf of the Fernley Improvement Club to waive parking and landscaping requirements for a site located at 10 N Center Street in a Commercial (C2) zoning district. (APN: 020-015-05)

Lisa Warner, Associate Planner, stated that the site suffered fire damage in 2024 and the applicant has applied for a building permit to repair the fire damage, which then triggers the improvements to make to the current development code. It is eligible for the waiver because it is located in the downtown area.

Commissioner Wagner disclosed he is a board member of the Fernley Improvement Club. He has worked with Mr. Ulhorn to reform the board and, though he has not been active in the project, he sees conflict with the vote. He's worked with HG Construction, and the waiver has his support, though he will not be voting. Commissioner Flores asked about the street parking, and it was clarified that street parking doesn't count towards the City Parking Standards and current development code. It was also clarified that this building has remained empty since the fire.

Motion: I MOVE TO APPROVE THE WAIVER ASSOCIATED WITH WVR2601 SUBJECT TO THE CONDITION OF APPROVAL 1 THROUGH 18 FINDING WVR01 THROUGH WVR05 FOR THE WAIVER HAVE BEEN MET AND THE FACTS SUPPORTING THESE FINDINGS ARE INCLUDED IN THE STAFF REPORT. **Action:** Approved, **Moved by:** Commissioner Angela Lewis, **Seconded by:** Vice Chairwoman Jenni McCullar. **Vote:** Passed, **Summary:** Yes 6, Abstained 1. **Yes:** Vice Chairwoman McCullar, Commissioner Lewis, Commissioner VanderHeiden, Commissioner Flores, Chairwoman Garvin, Commissioner Williams, **Abstain:** Commissioner Cody Wagner.

3. GENERAL BUSINESS

3.1. Presentation by Wood Rodgers to review the current and future traffic demands of Fernley roadways.

Michele Rambo, Planning Director, introduced Brian Gantt, project manager for the City of Fernley Corridor Action Plan.

Brian Bantt, Project Manager for the City of Fernley Corridor Action Plan, stated that the intent of today's overview is to give an update on the Corridor Action Plan and specifically and particularly relevant to the Planning Commission, a new tool that has been developed under this study that is at your disposal for helping inform planning decisions and making some informed choices around transportation. The corridor action plan is focused on the 3 NDOT facilities; Farm District Road, Main Street, and 95A. This study is partially funded by NDOT so the recommendations are generally focused on these three facilities.

3.2. Presentation from Mendy Elliot from Summit Government Affairs regarding Nevada Assembly Bill 540 signed into law in 2025.

Mendy Elliot, Summitt Government Affairs gave an overview of Nevada Assembly Bill 540. AB 540 was enacted during the 2025 Nevada legislative session in response to growing concerns over housing affordability and workforce housing shortages across the state. It created statewide attainable housing framework, which is intended to encourage the development of housing options for middle-income and workforce populations. The bill is specifically designed to serve households earning up to approximately 150% of AMI or area median income, which is a segment of the population that often does not qualify for traditional affordable housing programs but still struggles to afford market-rate housing.

Chairwoman Tessa Garvin called for a break - 6:25 pm - 6:35 pm.

4. PUBLIC HEARINGS

4.1. (For Possible Action) Discussion and possible action regarding Bill #385, associated with PD05-06MOD, a Major Modification to the handbook associated with the Friendly 5 Planned Development requested by Scott Berge to modify : 1) the proposed arterial roadway connection from the northern boundary of the development to U.S. Highway 50, 2) adding a new section to the handbook to establish design standards and requirements for the arterial roadway connection, and 3) revising Condition 4.K to modify the timing requirement for construction of

the roadway connection, along with other clarifying revisions. The subject site is generally located on both the north and south sides of Farm District Road, approximately 800 linear feet east of its intersection with Jessica Lane.

Treston Rodriguez, Senior Planner, presented. The applicant is requesting 3 primary modifications to the Friendly 5 Plans Development Handbook: first, modifications related to the future arterial roadway connection to US Hwy 50A, second to the addition of a new Section 4 point 1.3 establishing roadway design standards and implementation procedures, and third, revisions to Condition 4K to modify the timing requirement associated with the construction of the roadway connection.

Derek Kirkland, Wood Rodgers, gave an overview. We're changing the 151st lot to Villages 4 or 5 with the first residence to 12-foot travel lanes will remain, but we're changing the bike lanes to an 8-foot shared use path. Instead of the city being on the hook for 100% of construction reimbursement, there is now the Friendly 5 developers agreed to cost share in that and also the city has agreed to continue to work with the Friendly 5 developers to develop cost-share measures for other developments that come on in the area and use that road as a benefit.

Lauren Chilson, GCW Principal Traffic Engineer, stated the traffic study from the original version is 20 years old. Things are different than they were 20 years ago, not only in the way that we perform traffic studies, but in the way that were negotiated back to that original PUD in the way that traffic has developed.

Public input:

Becki Howlett stated she agrees with starting on the south side of Farm District Road. And if there's another way out from up to 50, then it would help relieve some of the traffic that goes by. It's getting to the point where it's really hard to get into town without driving the back roads to get around.

Motion: I MOVE TO RECOMMEND APPROVAL OF BILL NUMBER 385 ASSOCIATED WITH THE FRIENDLY 5 PLANNED UNIT DEVELOPMENT TO AMEND THE PD HANDBOOK, INCLUDING THE ADDITION OF SECTION 4.1.3 AND REVISIONS TO CONDITION 4.K TO ADJUST THE TIMING OF THE REQUIRED ROADWAY CONNECTION TO US FIFTY TO BE COMPLETED BY THE 1ST CERTIFICATE OF OCCUPANCY ISSUED ON THE SOUTH SIDE OF FARM DISTRICT ROAD IN THE SUBDIVISION. **Action:** Approved, **Moved by:** Commissioner Cody Wagner, **Seconded by:** Vice Chairwoman Jenni McCullar. **Vote:** Passed, **Summary:** Yes 7. **Yes:** Vice Chairwoman McCullar, Commissioner Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Chairwoman Garvin, Commissioner Williams.

4.2. (For Possible Action) Discussion and possible action regarding TSM26001, a Tentative Subdivision Map requested by Fred Altmann to allow for 253 townhomes on an approximately 16.88 acre lot zoned MF30 and located north of Westerlund Lane, east of Silverlace Boulevard, west of 6th Street, and south of US 50 Alternate. APN 021-103-61.

Treston Rodriguez, Senior Planner, requested a continuance on this item.

Motion: I MOVE TO CONTINUE ITEM 4.2 TO NEXT MONTH'S MEETING. **Action:** Approved, **Moved by:** Commissioner Jake VanderHeiden, **Seconded by:** Commissioner Cody Wagner. **Vote:** Passed, **Summary:** Yes 7. **Yes:** Vice Chairwoman McCullar, Commissioner Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Chairwoman Garvin, Commissioner Williams.

5. CHAIR AND COMMISSION ITEMS

Commissioner Cody Wagner stated that he and Vice-Chairwoman Jenni McCullar will be absent in June. Secondly, data centers have become the center of everyone's attention and should be front and center to create

regulations. The more information we have and the sooner we address that item and create some regulations on it, the better we will be and hoped this Commission has a say in that process.

Commissioner Robert Flores pointed out that there's a plan for expansion of the 80 Freeway from Reno, but not into Fernley.

6. PLANNING DIRECTOR ITEMS

6.1. Update on City Council actions from April 15, 2026 and May 6, 2026.

Michele Rambo, Planning Director, reported starting with the City Council actions for the April 15th and the May 6th meeting. On April 15th, they approved the Duffy Road abandonment with the requirement that it remain Duffy Road. The master plan amendment and zoning map amendment for Mark IV passed. We also discussed the adjacency code. They have some questions about enforcement for a few things. We will table and update a few things. On the May 6th meeting, the only thing that we had was a presentation from Mark IV on the progress of their project.

6.2. General Planning Department updates and announcements.

Michele Rambo, Planning Director, stated that she does have a meeting scheduled with NDOT to discuss future needs. We have been talking about the Cottonwood and 95 intersection.

The Data center ordinance is in the works, and we are hoping to have a workshop on that in July. We'll have a workshop with the Planning Commission, and then we'll take that to City Council and do the same thing just so that everybody's thoughts get incorporated into that.

7. PUBLIC FORUM

None at this time.

The next Planning Commission meeting will be June 10, 2026, at 5:00 pm.

8. ADJOURNMENT

There being no further business to come before it, the Fernley Planning Commission meeting adjourned at 7:29 pm

Approved by the Fernley Planning Commission on July 10 2026, by a vote of:

AYES _____ NAYS:_____ ABSTENTIONS:_____ ABSENT:_____

_____ _____

Chairwoman Tessa Garvin ATTEST:

CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: July 8, 2026

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Michele Rambo, Planning Director**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: X	Yes:	No: X	N/A

ACTION REQUESTED: Motion

AGENDA ITEM:

(For Possible Action) Review and discussion of two potential Zoning Code Amendments regulating data centers within the City of Fernley.

AGENDA ITEM BRIEF:

The development of large data centers is spreading into nearby communities. At the previous direction of City Council, staff has been working to stay ahead of any potential data centers within the City of Fernley by developing a section of the Development Code specifically addressing data centers. Staff has developed two potential draft Code Amendments and is looking for direction from the City Council before moving forward.

RECOMMENDED MOTION:

Staff is looking for any direction on which potential Zoning Code Amendment they would like staff to move forward with, in addition to any suggested additions or modifications they would like to see as part of that future Development Code section.

BUSINESS IMPACT (per NRS Chapter 237):

A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

None

BACKGROUND:
The City of Fernley, while not receiving any formal applications, is expecting the arrival of data centers within the next few months. After watching the impact that these data centers have had on nearby communities, City staff has been working to get out in front of the issues. To do this, staff has been researching data centers to understand the pros and cons, as well as researching other codes throughout the country to get ideas for how to address the biggest concerns. As a result, staff has developed two DRAFT Code Amendments and is now seeking direction on which one the Planning Commission would like staff to focus on.

Both versions contain the same basic elements such as:

- Requiring a Conditional Use Permit and a Development Agreement.
- Requiring information such as a water study, backup power plan, noise study, and emergency response plan with the CUP application submittal.
- The Development Agreement must include provisions regarding on-going noise monitoring, water supply review, decommissioning procedures, and an agreement that the data center will cover all increased costs of energy use (i.e. costs will not be passed on to other users).
- All data centers must use a closed-loop cooling system to minimize water use.
- Setbacks of 200 feet to any property line and 1,000 feet from the nearest residentially-zoned parcels.
- Buffering and screening from the public right-of-way and other identified vantage points.
- A requirement that taller buildings be placed in the middle of the parcel with shorter buildings towards the edges.
- Noise dampening equipment is required to be installed and maintained.
- Power lines under a certain voltage are required to be put underground.

In addition to these design and development standards, staff has included a public notification process that includes the mailing of public hearing notices to all property owners within 1,000 of the subject property boundaries and the requirement that the developer must hold a public informational meeting before the applications are scheduled for a public hearing.

Version 2 includes the added requirement for a Zoning Map Amendment to put a newly created Data Center Overlay designation on each parcel before a CUP and Development Agreement can be requested by the developer. These differences can be seen on Pages 1 and 2 of the Version 2 document (highlighted in yellow). Essentially, what this would do is allow the City Council to identify parcels it feels are more appropriate for data centers instead of allowing them anywhere within the Industrial zoning designation as Version 1 does.

At this point, staff is requesting direction from the Planning Commission on which version of the draft code they would like staff to move forward with and further develop. Staff is also looking for any additional requirements the Planning Commission would like to see included in the final ordinance and/or anything they wish to see modified from its current form. While not technically a public hearing, staff would also be interested to hear any suggestions that the public may have as well.

RELEVANT LAWS, STATUTES, AND REGULATIONS:

FMC Title 32 - Development Code

FINANCIAL IMPLICATIONS:

The creation of an Ordinance will not have any financial implications.

ATTACHMENTS:

1. Data Centers Draft 1 051826 - V1
2. Data Centers Draft 1 051826 - V2
3. Zoning-Practice-2025-10

Sec. 32.02.030 – Definitions

Data center. A facility consisting of one or more buildings used primarily for the ~~to store~~storage, management, processing, and ~~transmit~~transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances, and other associated components related to digital data operations. The facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at a data center. Data center includes commercial cryptocurrency mining operations and processing.

Data processing, hosting, and related services ~~(including data centers)~~. Establishments that provide infrastructure for hosting or data processing services. These establishments may provide specialized hosting activities, such as web hosting, streaming services, or application hosting; provide application service provisioning; or may provide general timeshare mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated processing and data entry services.

Sec. 32.07.145 – Data Centers

Purpose:

The purpose of this use standard is to provide a clear, comprehensive, and predictable regulatory framework for the siting and operation of data centers. This use standard is intended to ensure that such facilities are evaluated, located, and developed in a manner consistent with the Comprehensive Plan and that their infrastructure and operational impacts are appropriately reviewed and mitigated.

(a) Applicability. This section applies to any data center with a total electrical design capacity greater than 20 MW and/or uses more than 50 gallons per minute of water on an annualized basis at full buildout.

(b) Accessory Uses:

(1) Battery energy storage systems (BESS)
(2) Solar arrays and other similar on-site renewable power generation systems.
(3) On-site standby or backup power generation
(4) Electrical substations, switchyards, or power distribution equipment
(5) District energy or microgrid infrastructure
(6) Office, maintenance, and employee support facilities incidental to the data center

(c) Permits Required.
(1) Conditional Use Permit. The following information shall be submitted by the applicant with any Conditional Use Permit application for a data center.
a. All items listed on the application checklist and Appendix A for a Conditional Use Permit. Plans shall show a full buildout scenario, but may include proposed individual phases.
b. Rough Grading Plan showing the estimated cut and fill amounts.
c. Photometric Plan. A photometric plan shall be submitted providing details of the light spread and intensity diagrams, fixture specifications and mounting height details. Lighting shall comply with the standards found in Section XXX of the Development Code.
d. Utility Plan.

e. Landscape Plan.
f. Water Study. A water study shall be submitted outlining the amount of water needed and demonstrating that sufficient water resources are available to support the proposed use.
g. Written verification from the proposed power provider that the applicant has calculated the maximum planned electrical consumption of the proposed use and has verified the utility supply and related electrical infrastructure is sufficient to accommodate the applicant's proposed use.
h. A description of a backup power plan describing the fuel source and expected usage of any standby, backup, or temporary power generation systems. The plan shall identify the anticipated number and size of generators or other power units, anticipated testing frequency and duration, anticipated noise and emission control measures, and anticipated fuel storage and delivery methods. The plan shall also demonstrate that the data center will comply with all applicable local, state, and federal permitting requirements.
i. Noise study. A noise study shall be submitted demonstrating that the average hourly noise level shall not exceed fifty-five (55) dBA or sixty-five (65) dBC as measured from the outer wall of any occupied structure within adjacent residentially zoned property or sixty-five (65) dBA or seventy-five (75) BC as measured from the outer wall of any other occupied structure.
j. Emergency Response Plan. The applicant shall submit an emergency response plan detailing the planned response actions that will be taken by facility representatives in the event of an emergency to minimize health risks to personnel and people in the surrounding community. The plan shall be developed in coordination with the North Lyon County Fire Protection District, Lyon County Sheriff's Office, and the Lyon County Department of Emergency Management.

(2) Development Agreement. In addition to the items described in Section 32.XX.XX of the Development Code, a Development Agreement associated with a data center shall include the following information.
a. Road Damage Mitigation. Applicants shall identify all roads planned to be used for the purpose of transporting equipment for construction, operation, or maintenance of the data center and obtain applicable weight and size permits from the impacted road authority prior to construction. Applicant shall also conduct a survey and provide evidence of pre-construction roadway conditions to determine baseline road conditions. The survey shall adequately document all road, road right-of-way, and public drainage infrastructure conditions requested for use during all phases of construction.

The Development Agreement shall require that the applicant be responsible for on-going road maintenance and dust control measures for all identified roads and/or drainage facilities during all phases of construction. This may require certain applicant undertakings, including, but not limited to, providing financial assurance in the form of an irrevocable letter of credit, bond, cash, escrow, or other form of security or guaranty acceptable to the City of Fernley. At construction completion, the applicant shall verify that road conditions, to the extent impacted by the applicant's use in the construction of its data center, have been restored, as far as reasonably practical, to pre-construction conditions.

b. Noise Monitoring. Commencing on the fifth anniversary of the end of construction, as defined hereafter, and continuing every five years thereafter, for so long as the data center operates, a noise evaluation shall be completed at the operator's expense by a certified

professional by the Institute of Noise Control Engineering (INCE) or a licensed professional engineer (PE) to verify compliance with the City's standards. Completion of all data center buildings, or end of construction, means the date on which all of the following have occurred:

1. Completion of construction of the data center or, in the case of a phased or multi-building campus, all buildings of the campus.
2. Certificate of occupancy has been issued for all buildings.
3. The data center operator has communicated, in writing that it has completed the data center campus.
4. Exception: If all construction has stopped on the property for more than six (6) consecutive calendar months, other than due to delays by the City in processing related permits or approvals, then "end of construction" as used herein shall be deemed to have occurred as of the last day of such calendar month.

c. Water Supply Review. This section of the Development Agreement will address, at a minimum, water use monitoring, reporting frequency, data sharing protocols, and verification of compliance with applicable permits and approvals. The agreement may also include provisions addressing response procedures during periods of water supply constraint, drought, emergency conditions, or other circumstances in which water use reductions or operational adjustments may be necessary to protect public health, safety, or existing water users. Additional terms related to adaptive management, mitigation measures, and enforcement may also be included.

d. Power Supply. As part of the Development Agreement, data centers shall agree to cover the increased cost of electricity to ensure that those costs are not passed on the citizens of Fernley.

e. Community Betterment Fund. ?? Can we do this?

f. Decommissioning Procedures. The Development Agreement shall include procedures and/or requirements for what is to occur when/if the data center site is decommissioned. These could include, but are not limited to, notifying the City of Fernley, timelines for the removal of hazardous materials, demolition of all buildings and electrical infrastructure at the owner's expense, providing a bond or other surety for abatement of the property, or providing a site restoration plan.

(d) Development Standards

(1) General

a. All data centers shall be designed with a closed-loop cooling system to reduce the amount of water needed to a minimum.
b. When possible, heat generated by data centers shall be piped underground for neighboring parcels to use in their operations.

(2) Setbacks

a. 200 feet to the property line
b. No building or structure within the data center parcel shall be located within 1,000 feet of any parcels zoned for residential use (includes multiple-family residential zones)

(3) Access
a. The site shall be accessed by a paved road of sufficient capacity to accommodate the generated traffic (both numbers and weight), with continuous paved connection to an arterial street, state highway, and/or federal highway.

(4) Parking and Loading
a. Parking shall be calculated as identified in Section 32.09.120 – Parking and Loading.
b. A minimum of one loading space is required.
c. Loading spaces/bays shall be located in such a way as to not interfere with employee parking spaces or traffic movement.

(5) Buffering.
a. Lot frontage along a public street shall be separated from the edge of sidewalk by a landscaped yard of a least 20 feet in width, except where driveway access occurs.
1. Screening walls shall be placed on the interior edge of this yard.

(6) Screening.
a. Any perimeter screening visible from public right-of-way shall consist of solid block wall or other material that looks like a block wall.
b. Wrought iron or chainlink fencing is only allowed where it is not visible from the public right-of-way.
c. Rooftop-mounted equipment shall be screened by a parapet wall, equipment penthouse, or visually solid screen on all four sides that is constructed of materials complementary to those used in the exterior construction of the building. The screening shall be of a height tall enough to screen the equipment from any public right-of-way and/or adjoining parcels.
d. Electric substations associated with data centers shall be screened from any public right-of-way and adjoining parcels.

(7) Building Placement and Orientation.
a. All principal and accessory structures associated with a data center shall be arranged, designed, and constructed to be compatible with the site and with the surrounding properties.
b. Data center campuses containing more than one building shall provide a variety in building size, massing, siting, and appearance by transitioning from small or lower buildings along street frontages to larger and taller structures on the interior of the site.
c. Data centers shall not place larger, taller, or more massive buildings in a prominent location on the property or along a public street (including state or federal highways).

(8) Height.
a. The maximum height of any building or accessory structure of a data center shall comply with Table 32.06.110-1 – Industrial Density/Intensity Standards.
b. A taller height may be requested through the approval of a separate Modification application.

(9) Noise.
a. Noise dampening equipment shall be utilized wherever possible and shall be maintained in good working condition at all times.

(10) Power Lines.

a. Burying power lines serving the property is strongly encouraged.

b. On-site power lines of 34.5 kV and below must be buried.

(e) Notification Requirements.

(1) In addition to the notification requirements found in Section 32.XX.XX, the Conditional Use Permit shall be noticed to property owners and tenants within 1,000 feet of the subject site.

(2) Prior to the application being heard and the Planning Commission meeting, the applicant shall host a public informational meeting held at a location reasonably accessible to all identified property owners in the radius identified above. Applicants must mail a notice of the public informational meeting via first class mail and submit to the Planning Department a list of the property owners and tenants contacted, a copy of the notice sent, and a notarized affidavit stipulating to the mailing.

Sec. 32.06.150 – Unlisted uses and use table

Use Type	Additional Standards	GR 20	RR 5	RR 1	RR 1/2	SF 20	SF 12	SF 9	SF 6	MDR 14	MF 21	MF 30	MU	C1	C2	TC	EC	I	PF
Data Processing, hosting, and related services ~~(including data centers)~~															P		P	P	
Data Center	32.07.145																	C	

Sec. 32.09.120 – Parking and loading

Manufacturing and Employment:		
	Data Processing, Hosting, and Related Services ~~(including Data Centers)~~	1 per 1,000 sf
	Data Center	1 per employee on largest shift plus 3 spaces for visitor parking

DRAFT DATA CENTER ORDINANCE – VERSION 2

Sec. 32.02.030 – Definitions

Data center. A facility consisting of one or more buildings used primarily for the ~~to store~~storage, management, processing, and ~~transmit~~transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances, and other associated components related to digital data operations. The facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at a data center. Data center includes commercial cryptocurrency mining operations and processing.

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Sec. 32.06.145 – Data Center Overlay (DCO)

Purpose:

The purpose of this overlay zone is to identify parcels that are appropriate for use as data centers. This overlay is intended to ensure that data centers are located in areas of minimal impact to residential uses and other non-compatible uses. All standards found in Section 32.07.145 – Data Centers shall be followed.

Sec. 32.07.145 – Data Centers

Purpose:

The purpose of this use standard is to provide a clear, comprehensive, and predictable regulatory framework for the siting and operation of data centers. This use standard is intended to ensure that such facilities are evaluated, located, and developed in a manner consistent with the Comprehensive Plan and that their infrastructure and operational impacts are appropriately reviewed and mitigated.

(a) Applicability. This section applies to any data center with a total electrical design capacity greater than 20 MW and/or uses more than 50 gallons per minute of water on an annualized basis at full buildout.

No portion of this Section shall be modified or waived.

(b) Accessory Uses:

(1) Battery energy storage systems (BESS)

(2) Solar arrays and other similar on-site renewable power generation systems.
(3) On-site standby or backup power generation
(4) Electrical substations, switchyards, or power distribution equipment
(5) District energy or microgrid infrastructure
(6) Office, maintenance, and employee support facilities incidental to the data center

(c) Permits Required.
(1) Zoning Map Amendment.
a. A Zoning Map Amendment is required to add the Data Center Overlay (DCO) zoning designation on the subject parcel. If the subject parcel is already designated as DCO, this requirement would not apply.
b. All requirements for Zoning Map Amendments found in Section XXX of the Development Code shall apply.
(2) Conditional Use Permit. The following information shall be submitted by the applicant with any Conditional Use Permit application for a data center.
a. All items listed on the application checklist and Appendix A for a Conditional Use Permit. Plans shall show a full buildout scenario, but may include proposed individual phases.
b. Rough Grading Plan showing the estimated cut and fill amounts.
c. Photometric Plan. A photometric plan shall be submitted providing details of the light spread and intensity diagrams, fixture specifications and mounting height details. Lighting shall comply with the standards found in Section XXX of the Development Code.
d. Utility Plan.
e. Landscape Plan.
f. Water Study. A water study shall be submitted outlining the amount of water needed and demonstrating that sufficient water resources are available to support the proposed use.
g. Written verification from the proposed power provider that the applicant has calculated the maximum planned electrical consumption of the proposed use and has verified the utility supply and related electrical infrastructure is sufficient to accommodate the applicant's proposed use.
h. A description of a backup power plan describing the fuel source and expected usage of any standby, backup, or temporary power generation systems. The plan shall identify the anticipated number and size of generators or other power units, anticipated testing frequency and duration, anticipated noise and emission control measures, and anticipated fuel storage and delivery methods. The plan shall also demonstrate that the data center will comply with all applicable local, state, and federal permitting requirements.
i. Noise study. A noise study shall be submitted demonstrating that the average hourly noise level shall not exceed fifty-five (55) dBA or sixty-five (65) dBC as measured from the outer wall of any occupied structure within adjacent residentially zoned property or sixty-five (65) dBA or seventy-five (75) BC as measured from the outer wall of any other occupied structure.
j. Emergency Response Plan. The applicant shall submit an emergency response plan detailing the planned response actions that will be taken by facility representatives in the event of an emergency to minimize health risks to personnel and people in the surrounding community. The plan shall be developed in coordination with the North Lyon County Fire Protection District, Lyon County Sheriff's Office, and the Lyon County Department of Emergency Management.

(3) Development Agreement. In addition to the items described in Section 32.XX.XX of the Development Code, a Development Agreement associated with a data center shall include the following information.

a. Road Damage Mitigation. Applicants shall identify all roads planned to be used for the purpose of transporting equipment for construction, operation, or maintenance of the data center and obtain applicable weight and size permits from the impacted road authority prior to construction. Applicant shall also conduct a survey and provide evidence of pre-construction roadway conditions to determine baseline road conditions. The survey shall adequately document all road, road right-of-way, and public drainage infrastructure conditions requested for use during all phases of construction.

The Development Agreement shall require that the applicant be responsible for on-going road maintenance and dust control measures for all identified roads and/or drainage facilities during all phases of construction. This may require certain applicant undertakings, including, but not limited to, providing financial assurance in the form of an irrevocable letter of credit, bond, cash, escrow, or other form of security or guaranty acceptable to the City of Fernley. At construction completion, the applicant shall verify that road conditions, to the extent impacted by the applicant's use in the construction of its data center, have been restored, as far as reasonably practical, to pre-construction conditions.

b. Noise Monitoring. Commencing on the fifth anniversary of the end of construction, as defined hereafter, and continuing every five years thereafter, for so long as the data center operates, a noise evaluation shall be completed at the operator's expense by a certified professional by the Institute of Noise Control Engineering (INCE) or a licensed professional engineer (PE) to verify compliance with the City's standards. Completion of all data center buildings, or end of construction, means the date on which all of the following have occurred:

1. Completion of construction of the data center or, in the case of a phased or multi-building campus, all buildings of the campus.
2. Certificate of occupancy has been issued for all buildings.
3. The data center operator has communicated, in writing that it has completed the data center campus.
4. Exception: If all construction has stopped on the property for more than six (6) consecutive calendar months, other than due to delays by the City in processing related permits or approvals, then "end of construction" as used herein shall be deemed to have occurred as of the last day of such calendar month.

c. Water Supply Review. This section of the Development Agreement will address, at a minimum, water use monitoring, reporting frequency, data sharing protocols, and verification of compliance with applicable permits and approvals. The agreement may also include provisions addressing response procedures during periods of water supply constraint, drought, emergency conditions, or other circumstances in which water use reductions or operational adjustments may be necessary to protect public health, safety, or existing water users. Additional terms related to adaptive management, mitigation measures, and enforcement may also be included.

d. Power Supply. As part of the Development Agreement, data centers shall agree to cover the increased cost of electricity to ensure that those costs are not passed on the citizens of Fernley.

e. Community Betterment Fund. ?? Can we do this?

f. Decommissioning Procedures. The Development Agreement shall include procedures and/or requirements for what is to occur when/if the data center site is decommissioned. These could include, but are not limited to, notifying the City of Fernley, timelines for the removal of hazardous materials, demolition of all buildings and electrical infrastructure at the owner's expense, providing a bond or other surety for abatement of the property, or providing a site restoration plan.

(d) Development Standards

(1) General
a. All data centers shall be designed with a closed-loop cooling system to reduce the amount of water needed to a minimum.
b. When possible, heat generated by data centers shall be piped underground for neighboring parcels to use in their operations.

(2) Setbacks
a. 200 feet to the property line
b. No building or structure within the data center parcel shall be located within 1,000 feet of any parcels zoned for residential use (includes multiple-family residential zones)

(3) Access
a. The site shall be accessed by a paved road of sufficient capacity to accommodate the generated traffic (both numbers and weight), with continuous paved connection to an arterial street, state highway, and/or federal highway.

(4) Parking and Loading
a. Parking shall be calculated as identified in Section 32.09.120 – Parking and Loading.
b. A minimum of one loading space is required.
c. Loading spaces/bays shall be located in such a way as to not interfere with employee parking spaces or traffic movement.

(5) Buffering.
a. Lot frontage along a public street shall be separated from the edge of sidewalk by a landscaped yard of a least 20 feet in width, except where driveway access occurs.
1. Screening walls shall be placed on the interior edge of this yard.

(6) Screening.
a. Any perimeter screening visible from public right-of-way shall consist of solid block wall or other material that looks like a block wall.
b. Wrought iron or chainlink fencing is only allowed where it is not visible from the public right-of-way.

c. Rooftop-mounted equipment shall be screened by a parapet wall, equipment penthouse, or visually solid screen on all four sides that is constructed of materials complementary to those used in the exterior construction of the building. The screening shall be of a height tall enough to screen the equipment from any public right-of-way and/or adjoining parcels.
d. Electric substations associated with data centers shall be screened from any public right-of-way and adjoining parcels.

(7) Building Placement and Orientation.
a. All principal and accessory structures associated with a data center shall be arranged, designed, and constructed to be compatible with the site and with the surrounding properties.
b. Data center campuses containing more than one building shall provide a variety in building size, massing, siting, and appearance by transitioning from small or lower buildings along street frontages to larger and taller structures on the interior of the site.
c. Data centers shall not place larger, taller, or more massive buildings in a prominent location on the property or along a public street (including state or federal highways).

(8) Height.
a. The maximum height of any building or accessory structure of a data center shall comply with Table 32.06.110-1 – Industrial Density/Intensity Standards.
b. A taller height may be requested through the approval of a separate Modification application.

(9) Noise.
a. Noise dampening equipment shall be utilized wherever possible and shall be maintained in good working condition at all times.

(10) Power Lines.
a. Burying power lines serving the property is strongly encouraged.
b. On-site power lines of 34.5 kV and below must be buried.

(e) Notification Requirements.
(1) In addition to the notification requirements found in Section 32.XX.XX, the Conditional Use Permit shall be noticed to property owners and tenants within 1,000 feet of the subject site.
(2) Prior to the application being heard and the Planning Commission meeting, the applicant shall host a public informational meeting held at a location reasonably accessible to all identified property owners in the radius identified above. Applicants must mail a notice of the public informational meeting via first class mail and submit to the Planning Department a list of the property owners and tenants contacted, a copy of the notice sent, and a notarized affidavit stipulating to the mailing.

Sec. 32.06.150 – Unlisted uses and use table

Use Type	Additional Standards	GR 20	RR 5	RR 1	RR 1/2	SF 20	SF 12	SF 9	SF 6	MDR 14	MF 21	MF 30	MU	C1	C2	TC	EC	I	PF
Data Processing, hosting, and															P		P	P	

related services ~~(including data centers~~)																			
Data Center	32.07.145																	C	

Sec. 32.09.120 – Parking and loading

Manufacturing and Employment:		
	Data Processing, Hosting, and Related Services ~~(including Data Centers)~~	1 per 1,000 sf
	Data Center	1 per employee on largest shift plus 3 spaces for visitor parking

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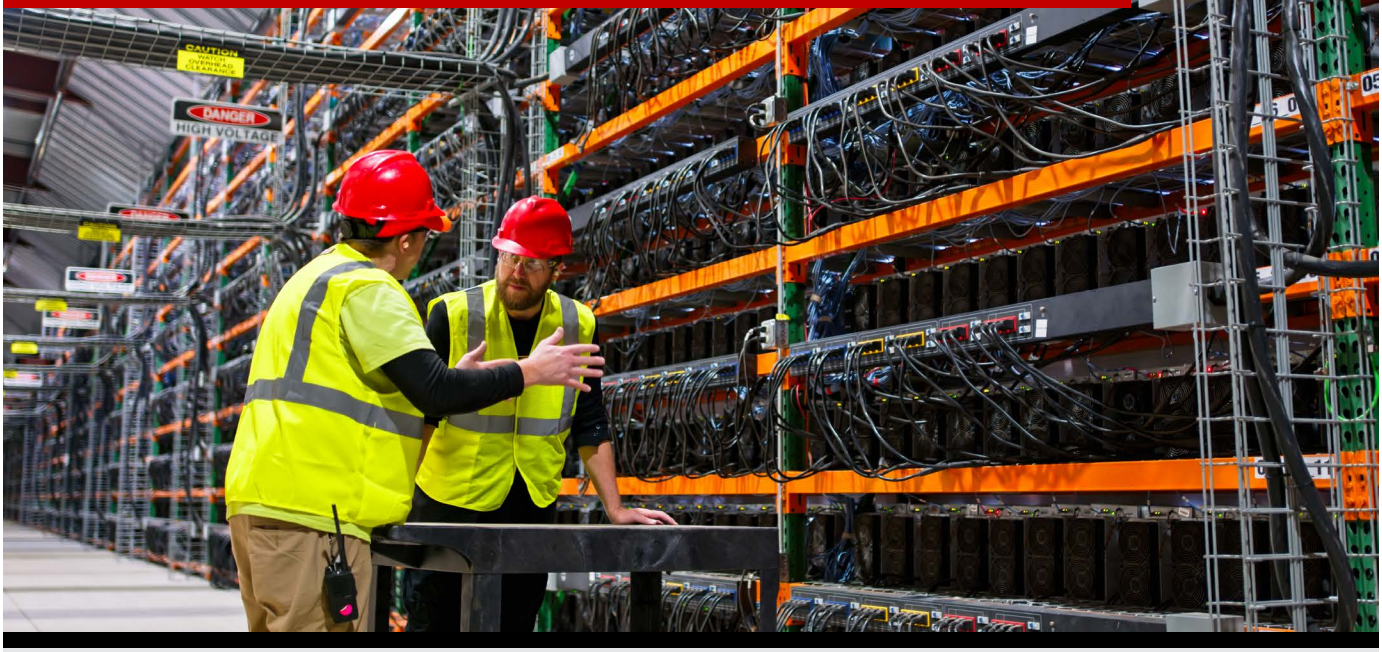
APA

ZONING PRACTICE

Unique Insights | Innovative Approaches | Practical Solutions

The Physical Footprint of Artificial Intelligence



In this Issue: What Are the Physical Needs of AI? | How Is AI Infrastructure Regulated (or Not)? | What Should Planners Be Thinking About? | Where Can Planners Learn More?

The Physical Footprint of Artificial Intelligence

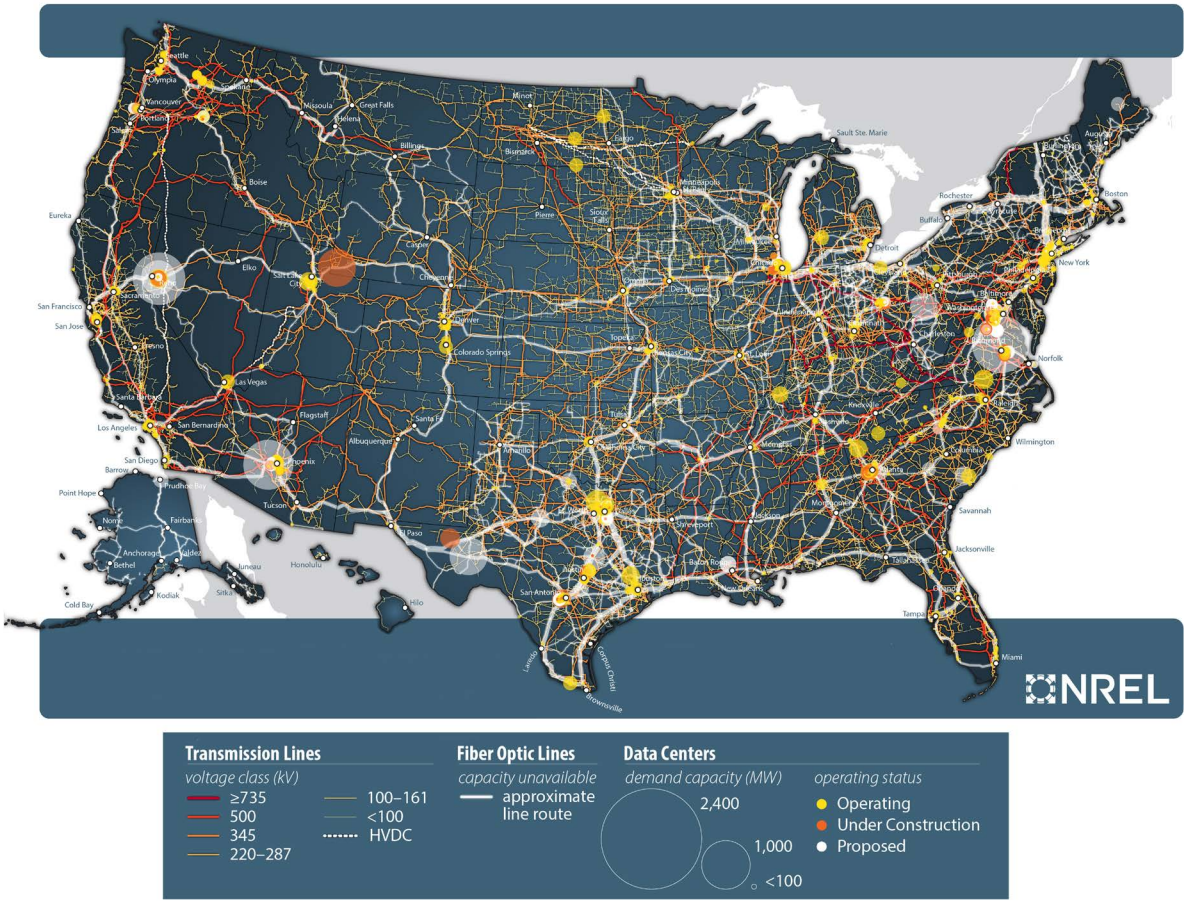
By Charlie Nichols, AICP

Every time you ask ChatGPT, Gemini, or Claude a question, you are tapping into a sprawling, power-hungry network of machines. Somewhere, a data center's processors are whirring, fans are spinning, and megawatts of electricity are flowing.

Artificial intelligence (AI) may feel virtual, but its footprint is intensely physical. Behind every chatbot interaction, predictive algorithm, or autonomous system lies a vast network of data centers, power generators, and electricity transmission and distribution infrastructure. As vast as it is now, the demand for computing power is growing at an exponential rate, and local zoning is on the front lines.

This issue of *Zoning Practice* explores the physical effects of AI deployment and highlights core considerations for local planning and zoning. It begins with a summary of the land use characteristics of the system of data centers that host and serve contemporary AI models before highlighting noteworthy regulatory approaches and areas of opportunity for zoning updates and land use decision-making processes.

Data center infrastructure in the United States, 2025 (Credit: NREL)



What Are the Physical Needs of AI?

When we think about artificial intelligence, we often imagine abstract ideas or algorithms, software, or maybe a chat assistant or a robot. But AI is deeply physical. It runs on powerful hardware that lives in large buildings, draws enormous amounts of electricity, and requires robust infrastructure to keep it cool and operational. These needs are shaping land use decisions in ways many communities have never dealt with before.

AI Lives in Data Centers

The primary home of AI is the data center. These are large, sometimes windowless, buildings filled with servers, networking equipment, and backup systems. While some are sleek and high-tech, many look like simple warehouses. But inside, the technology is anything but simple.

AI workloads require far more computational power than traditional cloud computing. That means more servers packed with graphics processing units (GPUs), which are optimized for machine learning tasks. These GPUs are energy-intensive and generate a significant amount of heat (Shehabi et al. 2024; Casey 2025).

This is why the design, location, and infrastructure of data centers have become such a big deal. For example, Meta's Altoona, Iowa, data-center campus has more than five million square feet of space and is still growing (Miller 2022).

Data centers themselves fall into several distinct categories. Edge or micro facilities are the smallest, often modular container-sized enclosures ranging from a few hundred to a few thousand square feet. Enterprise data centers, typically operated by corporations or universities, can range from about 5,000 to 50,000 square feet, sometimes larger. Colocation facilities lease space to multiple tenants and often fall between 50,000 and 600,000 square feet, with many averaging around 150,000 square feet. At the largest scale are hyperscale data centers, typically built by major cloud or AI providers, which can easily reach hundreds of thousands of square feet per building and exceed one million square feet across a campus (Zhang 2023).

While many forecasts focus on power demand rather than square footage, it is possible to translate one into the other. Deloitte estimates that AI-driven data centers could require up to 123 gigawatts (GW) of capacity in the U.S. by 2035, compared to roughly 4 GW today (Stansbury et al. 2025). Real-world projects suggest that every megawatt of IT load requires between 5,000 and 12,000 square feet of total building area. Applying that ratio to 123 GW implies a national buildout of 615 million to 1.48 billion square feet of data center space, equivalent to about 22 to 53 square miles. Land use estimates point in a similar direction, with recent projects averaging 0.5 to 1.5 acres per MW, which would translate to roughly 96 to 288 square miles of U.S. land devoted to AI-related data center campuses by 2035 (Stansbury et al. 2025).

A proposed 612-acre hyperscale data center campus in Cedar Rapids, Iowa (Credit: QTS)

AI Needs Lots of Electricity

Power demand is one of the most critical limiting factors in scaling AI. The U.S. Department of Energy's Secretary of Energy Advisory Board notes that legacy hyperscale data centers have typically connected at 20–50 megawatts (MW), but utilities are now receiving AI-driven connection requests for single campuses of 300–1,000 MW (2024). To put the low end of that new range in context, a 300 MW facility running around the clock would consume about 2.6 terawatt-hours a year—roughly the annual electricity use of 250,000 U.S. homes (calculated

with the U.S. EIA average of 10,500 kWh per household). These unprecedented loads are forcing planners, utilities, and regulators to rethink siting, transmission capacity, and community-impact mitigation.

This demand is driving data centers to locate near existing transmission infrastructure, substations, or power plants. In some cases, new substations or transmission lines are being proposed just to support AI infrastructure. Local planners are being asked to approve not just buildings, but energy projects with regional impacts.

There is also growing concern about the climate impacts of AI. Researchers estimate that the cumulative carbon emissions from AI models could reach 3.66 to 8.72 million tons in the U.S. alone—the equivalent of driving an average gasoline-powered car nine to 22 billion miles (Ding et al. 2025; USEPA 2024). This has led to pressure for data centers to run on renewable energy, adding another layer of land use complexity as solar or wind farms are proposed nearby or colocated together with data centers.

AI Needs Water and Cooling

All that power generates heat, and that heat has to go somewhere. Most data centers use a combination of air- and watercooling systems. Some of the largest AIfocused facilities can consume hundreds of thousands of gallons of water per day for evaporative cooling (Lei et al. 2025; Shehabi et al. 2024; Selsky 2022). That's raising concerns in water-scarce regions or places where water infrastructure is already stretched thin.

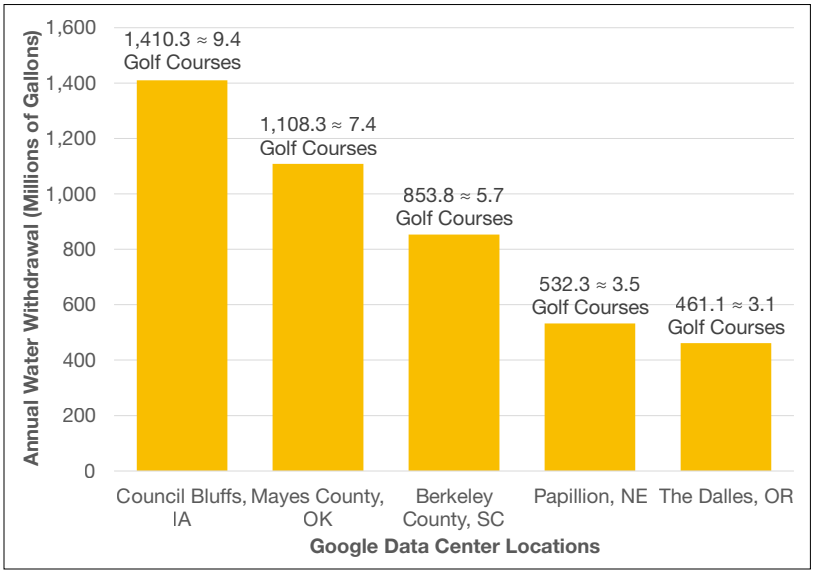
For example, in The Dalles, Oregon, a dispute between Google and the city over water use became national news when the city council approved a water agreement to support Google's data center expansion, despite local concerns about long-term water availability (Selsky 2022).

Water and cooling infrastructure also raise siting questions. Should data centers be allowed in areas with limited water supply? What happens when a tech company becomes one of the largest users of municipal water? These questions are starting to reach planning commissions and city councils.

AI Needs Fiber and Connectivity

Finally, AI infrastructure depends on high-speed fiberoptic connections. Training models and delivering AI services both require fast, reliable data transmission. This can drive the need for new fiber lines, telecom infrastructure, or even small-cell installations in rural or suburban areas (RVA LLC 2025; Walker 2024).

It's not just big cities seeing these investments. Some rural areas are gaining interest from AI developers because they offer space, lower land costs, and cooperative local governments—provided they can offer fiber access and a willing utility partner.



Top-five U.S. Google data centers by annual water withdrawals, 2024 (Credit: Google's 2025 Environmental Report)

How Is AI Infrastructure Regulated (or Not)?

If your city or county does not already have a data center, just wait. The odds are increasing that a tech company, or the utility that serves them, will soon come knocking. Yet most local governments are not fully prepared to regulate AI infrastructure. In many places, the regulatory framework is either nonexistent or built for a different era of technology.

Zoning Codes Rarely Mention AI or Data Centers

Many zoning codes still make no explicit reference to "artificial intelligence" or even to "data centers." Where definitions are

absent, planners may choose to slot these facilities into broad buckets such as warehousing, light-industrial, or public-utility uses, even though the buildings may be packed wall-to-wall with servers instead of pallets.

Yet these facilities behave very differently from the categories they're often shoehorned into, and there are many reasons why local governments may want to specifically define data center uses (Morley 2022). Their continuous operation demands megawatts of electricity and, in many climates, hundreds of thousands of gallons of cooling water per day; the equipment generates heat and noise; and the employment footprint is minimal. When such impacts are overlooked, communities can be blindsided—as happened in Prince William County, Virginia, where approval of a massive datacenter corridor sparked backlash over noise, power delivery, and land use compatibility.

Recognizing this mismatch, an increasing number of jurisdictions have begun to write data-center-specific rules. Loudoun County, Virginia, imposes façade, screening, lighting, and pedestrian-connectivity standards on by-right data centers to blunt visual impacts while leveraging their tax base (§4.06.02). Prince William County uses a Data Center Opportunity Zone Overlay to funnel projects to infrastructure-served parcels and require design review (§32-509). Missoula County, Montana, offers a different model. The county's ordinance, crafted for cryptocurrency mines, confines those operations to industrial zones and requires them to offset 100 percent of their electricity use with renewable energy (§5.10). Because cryptocurrency mines and large-scale data centers both run continuously, draw high-density power, and employ few on-site workers, planners can adapt the same toolkit—clear land use definitions, targeted overlay districts, and energy-focused performance standards—to data centers when communities want comparable safeguards.

Looking ahead, AI training clusters dwarf the loads discussed in 2022, with utilities now fielding single-campus interconnection requests of 300 MW and more. The zoning fundamentals remain the same, but the stakes are higher. Without proactive definitions, locational criteria, and impact standards, local governments risk conceding critical decisions about land, water, and grid capacity to developers' timetables rather than community goals.

Data Center Alley in Loudoun County, Virginia (Credit: Gerville/iStock/Getty Images Plus)

Many AI Facilities Are Allowed by Right

In areas that do allow data centers by right, local officials often have little authority to influence their design or siting (Morley 2022). Developers may be able to build massive facilities with only administrative approval. If the project complies with the basic zoning and building code, it can move forward, even if it brings significant impacts to neighboring properties or the local infrastructure system.

This hands-off, by-right approach can leave neighbors in the dark when a campus that draws 100 MW or more of power is permitted the same way a warehouse is. Such facilities may also require hundreds of thousands of gallons of cooling water per day and generate continuous low-frequency noise from chillers, pumps, and backup generators (Van Geet and Sickinger 2024). Without a public-hearing trigger, residents may not learn what is coming until the bulldozers roll.

That said, relying on discretionary use permits alone is not a perfect fix. Case-by-case approvals can introduce uncertainty, increase timelines, and duplicate reviews that utilities already perform when they decide whether to supply the necessary electricity and water. A more balanced strategy is to embed objective, use-specific standards (e.g., caps on sound at the property line, requirements for renewable-energy procurement, and

water-recycling targets) directly into the zoning code. Guidance from the Urban Land Institute shows how clear definitions, overlay districts, and measurable performance thresholds can give developers predictability while still protecting community interests (Miet 2024). By pairing these standards with early coordination among planners, utilities, and residents, communities can address local impacts without resorting to duplicative or open-ended discretionary reviews.

Infrastructure Approvals May Be Handled Separately

Adding to the complexity, the infrastructure needed to support AI such as transmission lines, substations, power generation facilities, battery energy storage. and fiber installations is often regulated under different frameworks. Utilities may have their own review and siting authority at the state level, which can bypass local land use processes entirely.

Large solar or wind projects, for example, are pre-empted from local control in more than 20 U.S. states, leaving local governments to vet the data-center building, while the power generation facility that feeds it is debated elsewhere (Gomez and Morley 2023; Morley 2025). Fragmented approvals make it hard for planners to tally cumulative effects such as substations, access roads, or groundwater withdrawals.

Battery-energy-storage systems (BESS) create another layer of complexity, and a clear trend of data centers colocating BESS on-site is accelerating (ZincFive 2024). Some states exempt utility-scale BESS that are colocated with generation assets, while others treat them as industrial equipment needing only an electrical permit. Where local authority does apply, recent guidance recommends clear definitions, district regulations, and objective safety standards, thermal-runaway monitoring, minimum setbacks, and emergency-response plans to avoid ad-hoc hearings (Ross and Vadali 2024).

Developers are now bundling data centers with on-site renewables and storage in microgrid "energy parks," aiming to bypass long interconnection queues and control energy costs. Recent projects in Texas and Virginia pair hundreds of megawatts of generation and storage with adjacent server halls, creating hybrid campuses that straddle state energy-facility review, regional transmission rules, and local zoning (DiGangi 2025). To keep pace, planners can identify jurisdictional triggers early, embed measurable performance standards (e.g., noise caps, screening, or renewable-energy sourcing) in their codes,

The Eland Solar-plus-Storage Center in Kern County, California (Credit: The Desert Photo/iStock/Getty Images Plus)

and coordinate with utilities so local and state reviews proceed on aligned timelines.

Environmental Review Is Inconsistent

Environmental review of AI infrastructure also varies widely. In states that require environmental impact statements (EIS), large-scale data centers may undergo detailed scrutiny. But in states without EIS laws, or for smaller projects, there may be minimal analysis of water use, energy consumption, or greenhouse gas emissions (Morris 2024).

Even where review is required, the focus may be on the building itself, rather than the full ecosystem of impacts. For example, if a local code does not require review of off-site power infrastructure or supporting utility upgrades, critical issues related to energy delivery, environmental impact, or long-term capacity may fall through the cracks.

Local Governments Are Starting to Catch Up

Local governments are no longer standing still while hyperscale campuses spring up at the edge of town. Since 2023, a wave of city councils, county boards, and planning commissions have begun moving data centers out of catch-all industrial categories and into their own, better-defined regulatory boxes. Some jurisdictions, such as Atlanta, now require special-use permits tied to energy, water, and noise studies (Ordinance 25-O-1063). Others, such as Cedar Rapids, Iowa, leverage community-benefit agreements to ensure local reinvestment when a project wins approval (Pratt 2025).

Approaches vary, but the trend is unmistakable: Communities are adopting objective, use-specific standards rather than relying solely on ad-hoc discretionary permits. Some ordinances steer projects into infrastructure-served corridors, others set caps on sound and water use, and a growing number link approvals to renewable energy procurement or on-site battery storage. Table 1 highlights seven recent examples illustrating the breadth of new zoning language, overlay districts, and design guidelines that together show local governments are indeed catching up.

Table 1. Examples of Recent Local Regulatory Updates for Data Centers

Jurisdiction	How it regulates data-center impacts
Atlanta, GA	Requires a special-use permit for every new data center and empowers the city council to review water-consumption, energy-efficiency, and noise-mitigation plans (Ordinance 25O1063, 2024)
Brainerd, MN	Prohibits data centers unless the planning commission approves a conditional-use permit that addresses cooling noise and utility demand (Ordinance No. 1581, 2025)
Chandler, AZ	Adds a data center use category; limits the use to Planned Area Development zones and sets size, generator-testing and water-recycling standards (Ordinance No. 5033, 2022)
Tempe, AZ	Requires a water use plan and enhanced setbacks next to homes and schools, and "innovation hubs" (Ordinance No. O2025-23, 2025)
Phoenix, AZ	Defines "data center," restricts locations, and introduces design standards such as façade articulation and noise studies (Ordinance G-7396, 2025)
Sugar Grove, IL	Creates a dedicated district with height limits, façade screening, and a master-utility-plan requirement (Ordinance No. 2022-1206B, 2022)
Frederick County, MD	Establishes an overlay zone that limits where data centers can be built (Bill No. 25-05, 2025)

What Should Planners Be Thinking About?

Artificial intelligence may sound futuristic, but the decisions that shape its physical footprint are being made today. Local governments that wait too long to prepare may find themselves reacting to projects rather than guiding them. So what should planners be thinking about now?

Think About Scale

AI infrastructure often hides in plain sight until its true footprint emerges. What looks like a single "warehouse" can blossom into a portfolio buildout—multiple server

halls, two substations, a battery yard, and a 30-inch water main, all staged over a decade (USDOE SEAB 2024). To avoid approving these megaprojects one slice at a time, some jurisdictions now demand a phased master plan up front. For example, Loudoun County, Virginia, requires every data-center rezoning to include a "Data Center Development Plan" showing the full buildout of power feeds, cooling infrastructure, and utility corridors before the first site plan is approved (2025).

Regional utilities are following suit by running scenario-based load models to test whether transmission and groundwater supplies can keep up. A 2024 white paper by Energy + Environmental Economics describes how such models informed Portland (Oregon) General Electric's latest integrated-resource plan and helped local planners identify future right-of-way corridors for two new 230-kV lines (Riu et al. 2024). By asking for phased utility exhibits and participating in utility load-growth scenarios, planners can make sure each new server hall fits into a system-wide picture rather than becoming an isolated surprise.

Many comprehensive plans still treat "technology infrastructure" as an afterthought, yet data center proposals are now shaping decisions on land supply, energy policy, water allocation, and broadband.

Think About Alignment With Your Plans

Many comprehensive plans still treat "technology infrastructure" as an afterthought, yet data-center proposals are now shaping decisions on land supply, energy policy, water allocation, and broadband. Start by inventorying where AI-related facilities touch existing plan elements—utilities, environmental stewardship, economic development—and flag the gaps.

One emerging best practice is to link data-center approvals directly to community climate goals. Embedding such benchmarks in comprehensive plans or codes gives planners clear decision criteria and ensures that new AI infrastructure advances, rather than conflicts with, local resiliency objectives.

Plans can also weave data-center growth into broadband and workforce strategies. The U.S. Department of Energy's 2024 report on AI infrastructure recommends that local governments coordinate land-use designations with state broadband-expansion maps so that fiber corridors serving data centers double as backbone routes for underserved neighborhoods (USDOE SEAB 2024). Aligning these layers up front helps planners negotiate public-benefit clauses—such as dark-fiber setasides or training programs, rather than scrambling for concessions late in the process.

Updating your plan first and then adopting measurable standards that flow from it gives applicants clarity, while ensuring projects advance the community's long-term vision.

Think About Infrastructure Capacity

AI campuses can overwhelm local utilities faster than many other land uses. Virginia's Joint Legislative Audit and Review Commission estimates that data centers will require 11 gigawatts (GW) of new electric generation and transmission in that state alone by 2035, roughly one-third of Dominion Energy's entire current system (VJLARC 2024). National modeling by Energy + Environmental Economics shows a similar surge, with some balancingareas seeing load grow 25 percent in a single decade under an "AI-high" scenario (Riu et al. 2024).

Water systems face parallel stress. At Google's complex in The Dalles, Oregon, public records show cooling demand could top one-quarter of the city's current supply, prompting a 2023 agreement that pauses future phases unless new wells come online (Selsky 2022). Quincy, Washington, responded to similar pressures by creating a special water rate class and meter fee for data centers to fund infrastructure upgrades (2025). These examples point to tools planners can

The Three Mile Island nuclear power plant in Middleton, Pennsylvania, which is coming back online to power Microsoft data centers (Credit: gsheldon/ iStock Editorial/ Getty Images Plus)

adopt: cumulative-demand studies embedded in utility master plans, tiered rate structures that recover capital costs, and permit conditions that link new construction to confirmed water-capacity projects.

Electric and water systems are only part of the picture. Broadband providers may need additional conduit banks, and public works departments often discover that construction traffic surpasses road-design volumes. Objective, use-specific standards, such as requiring a utilityinfrastructure plan that maps ultimate substations, mains, and fiber routes, plus haul-route and pavement-repair agreements, give planners leverage without duplicating state or utility reviews.

Think About Cumulative Impacts

A single 30 MW data center can feel benign, yet clusters of 10 or more along one corridor may push peak electric load past a gigawatt, double truck traffic during construction, and raise ambient sound by up to 10 dBA at nearby homes (VJLARC 2024). Project-by-project review often misses these system-level effects, so several jurisdictions now require applicants to look beyond their parcel lines.

Clustering can also amplify benefits if managed deliberately. Developers in Texas and Virginia now pair multiple server halls with a shared microgrid that combines on-site solar, wind, and battery storage—an "energy-park" model that eases interconnection delays and helps regions meet renewable-energy goals (DiGangi 2025). By mapping preferred corridors for both data centers and their supporting infrastructure, planners can steer growth to areas where capacity, compatibility, and community returns align.

Think About Equity and Community Benefits

Data-center projects promise major capital investment but generate few long-term jobs and can offload noise, truck traffic, and resource use onto nearby neighborhoods. Additionally, new cost analyses show that ordinary ratepayers are already footing most of the bill for AI's voracious appetite for electricity.

Monitoring Analytics, the independent market monitor for PJM Interconnection, the largest regional transmission organization in the U.S., calculated that between 2024 and 2025 data-center electricity demand added about $25 to the typical household's monthly bill (Biryukov 2025). PJM now projects that AI and data-center

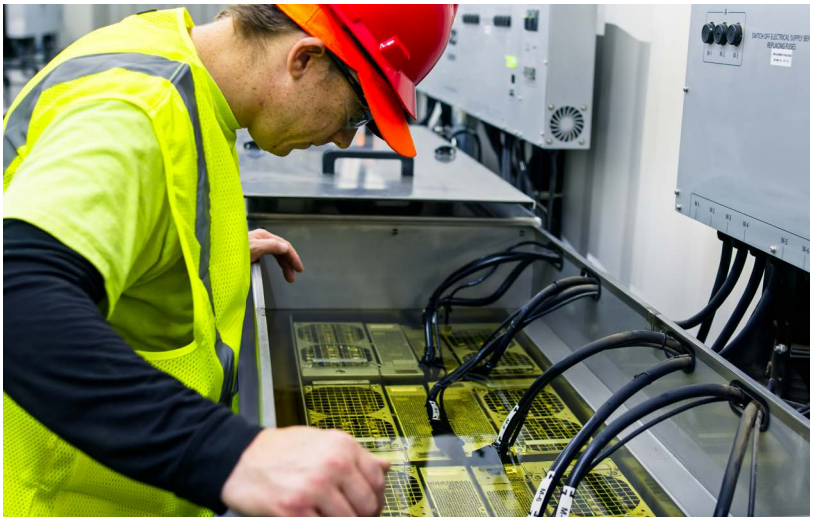
demand will double the region's energy use by 2033, whereas growth would have been only 15 percent by 2040 without new campuses (JLARC 2024).

In response to this and other similar projections of effects on ratepayers, lawmakers in New Jersey (AB 5466), Oregon (HB 3546), and other states have introduced bills or tariffs to place data centers in a separate rate class or require them to "bring their own clean power," so everyday customers are not forced to subsidize the electricity needs of trillion-dollar tech companies (Levy 2025). More communities are also moving to tie approvals to arrangements that deliver measurable local benefits.

For example, Cedar Rapids, Iowa, required QTS to sign a community benefits agreement (CBA) that will return about $18 million over 20 years for workforce training, broadband expansion, and green-infrastructure projects (Pratt 2025). Legal guidance stresses clear milestones, third-party verification, and enforcement clauses to keep such agreements credible (Eisenson 2023).

Meanwhile, Quincy, Washington, created a special water rate class for data centers in 2024, adding higher volumetric charges and meter fees earmarked for new wells and main upgrades. Targeted surcharges turn one user's high demand into system-wide resilience.

By weaving CBAs and host-community fees into zoning approvals or development agreements, planners can ensure that AI infrastructure acts as a catalyst for broader community gain rather than an enclave of private benefit.



A North Dakota data center using nonconductive fluid to cool servers rather than air or water cooling systems (Credit: halbergman/E+)

Where Can Planners Learn More?

As artificial intelligence infrastructure expands, planners have a growing need to stay informed about what these facilities are, how they function, and how to plan for them thoughtfully. The good news is that several helpful resources already exist, and more are emerging every year.

Follow the Energy

Many AI-related land use challenges stem from energy demand. That means energy planning organizations are a good place to start. Resources from the U.S. Department of Energy, National Renewable Energy Laboratory, and Lawrence Berkeley National Laboratory offer insights into data center energy use, grid impacts, and cooling technologies (Shehabi et al. 2024; USDOE SEAB 2024; Van Geet and Sickinger 2024).

State and regional energy offices are also useful partners. They can help planners understand energy trends, forecasted demand, and opportunities to align AI-related development with state energy goals.

Watch the Water

Water use is another key issue, especially in places facing drought or groundwater depletion. Reports from the U.S. Environmental Protection Agency, as well as local water utilities and watershed management agencies, can help assess water-related impacts of AI infrastructure.

Planners can also look to academic and journalistic research on water use in cooling systems, which varies significantly based on the type of cooling and climate zone (Berreby 2024).

Track Technology and Land Use Trends

For a broad view of how technology affects land use, the Lincoln Institute of Land Policy and the Urban Land Institute have both published helpful materials. These organizations explore how emerging technologies from AI to autonomous vehicles are reshaping cities, infrastructure, and land markets.

Local case studies can also be instructive. Some jurisdictions have started sharing lessons learned from planning for large-scale data centers or tech campuses. For example, Loudoun (2024; 2025) and Fairfax (2024) Counties in Virginia offer planning documents and staff reports that shed light on real-world challenges and solutions.

Build Cross-Sector Relationships

Planning for AI infrastructure requires collaboration. It touches on land use, utilities, economic development, and environmental protection. Building relationships with energy providers, water utilities, economic development groups, and regional planning agencies can help planners spot opportunities and anticipate challenges.

Conferences like the American Planning Association's National Planning Conference, Grid Forward, or Smart Cities Connect often include sessions on technology infrastructure. These events are a great way to hear from peers and industry experts.

AI infrastructure is no longer a far-off idea; it's already shaping land use decisions in communities across the country. For planners, this presents both challenges and opportunities. By understanding what AI infrastructure is, what it requires, and how it fits into broader planning goals, local governments can prepare for development that is sustainable, equitable, and forward-looking.

As with many emerging trends, the best path forward is to stay curious, build partnerships, and think holistically. AI may be powered by algorithms, but the future it creates will depend on human decisions, including the choices planners make today.

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About the Author

Charlie Nichols, AICP, is the Director of Planning and Development for Linn County, Iowa. He leads a 15-person department and has written pioneering zoning ordinances for utility-scale solar, nuclear energy, and hyperscale data centers. Nichols received his master's degree in urban and regional planning from the University of Iowa and has been working in the field of planning for over 10 years. Outside of work, he enjoys tending to his backyard chickens and working on home renovation projects with his wife and three children.

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CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: July 8, 2026

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Lisa Warner**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: X	Yes:	No: X	N/A

ACTION REQUESTED: Motion

AGENDA ITEM:

(For possible action) Discussion and possible action on a Conditional Use Permit (CUP26002) submitted by Pilot Travel Centers LLC proposing a 1,829 square foot expansion to the existing 10,530 square foot travel facility located at 465 W Main Street in a Commercial (C2) zoning district.

AGENDA ITEM BRIEF:

Pilot Travel Centers LLC is proposing a 1,829 square foot expansion to the existing 10,530 square foot travel facility, representing an 17.4% increase in gross floor area located at 465 W Main Street in a Commercial (C2) zoning district.

RECOMMENDED MOTION:

"Based on the information provided in the staff report and as presented in the staff presentation, I move to approve the Conditional Use Permit associated with CUP26002 subject to Conditions of Approval 1 through 17.

BUSINESS IMPACT (per NRS Chapter 237):

A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

Denial

Based on the information provided in the staff report and as presented in the staff presentation, I move to deny the Conditional Use Permit associated with CUP26002 because I am unable to make Finding _____."

Note:

Though no further language has been provided, all motions possible under the Planning Commission parliamentary procedure are appropriate.

BACKGROUND:

The site was purchased by Pilot Corporation in 1999, which was prior to the incorporation of the City of Fernley in 2001.

The existing Pilot Travel Center facility is a legal "non-conforming" use meaning the use of land was lawfully established prior to the adoption of our current Development Code. The use was established without discretionary review and would require review under our current Development Code.

The travel center use standards require a minimum site area of 10-acres, and a parcel map recorded in 2020 confirms the site area as ± 9.09-acres. Therefore, the site is also non-conforming to use standards.

The existing travel center facility is 10,530 square feet, which includes a restaurant, travel store, rest stop building, a grounds' maintenance building and two freezer units attached to the exterior of the main building.

In order to enlarge a "non-conforming" use by more than ten (10) percent of the area lawfully occupied by the "non-conforming" use, a Conditional Use Permit is required.

The proposed expansion will involve the addition of 1,829 square feet to the north of the current building. The expansion proposes the reconfiguration and enlargement of seven (7) existing shower/restroom units, installation of three (3) clothes washers, and enlargement of an existing freezer unit. The improvements are intended to enhance restroom and laundry capacity in response to customer demand, particularly from commercial drivers and interstate travelers.

In addition to the building expansion, the project includes a re-pipe and fuel system upgrade consisting of:

- Abandonment of existing fuel tanks near building
- Installation of new fuel tanks in a new location
- Revisions to storm drainage beneath the diesel canopy
- Replacement/regrading of concrete aprons beneath both gas and diesel canopies
- New fuel piping
- Minor regrading providing appropriate coverage over new and abandoned fuel tanks

These improvements are limited to the replacement, relocation, and modernization of existing infrastructure to enhance safety, operational efficiency, and regulatory compliance. The proposed improvements do not increase

fuel capacity or the operational footprint of the store.

Since the building will be increased in size by 1,829 square feet, this is considered an intensification of use which will trigger compliance with the current development code. This will include 10,293 square feet of landscaping, which is the proportional amount of landscaping required per FMC 32.09.090(a)(2) to bring the project into full compliance for landscaping. This also includes updating the existing trash enclosure on site to bring it into compliance with FMC 32.09.090(i).

ANALYSIS:

Findings for approval:

1. **The proposed conditional use will be in compliance with the Comprehensive Master Plan.**

   The City of Fernley Comprehensive Master Plan designates this parcel as Commercial (C2). The zoning on this parcel is also Commercial (C2). The purpose of the Commercial zoning designation is to "create and preserve areas for businesses that provide a variety of retail and other commercial services in concentrated centers that serve the local community, or tourist-oriented uses adjacent to I-80 and downtown Fernley." Although the site will remain "non-conforming" as far as travel center use standards, the conditional use will become conforming with the Conditional Use Permit. Therefore, the travel center facility is an appropriate use and complies with the Comprehensive Master Plan.

2. **The conditional use will be compatible with the existing or permitted uses of adjacent properties.**

   The site is located in close proximity to I-80 which makes the location ideal for its current use. The current use is compatible with the surrounding Master Plan designations, zoning designations, and existing uses.

   - North – Commercial (C2) – Loves Travel Center
   - South – Commercial (C2) – Vacant
   - West – Travel Center (TC) – Blue Beacon USA
   - East – Industrial (I) – Jackpot Casino and Las Palmas Restaurant

3. **The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment.**

   There are no known natural resources that will be impaired on the subject parcel.

4. **The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.**

   The proposed project does not include a residential component.

5. **The Conditional Use Permits impacts have been conditioned to address identified impacts.**

   The project as designed has addressed all design standards in the City of Fernley Municipal Code.

6. **Public notice has been given, and a public hearing held per the requirements of the development code and the Nevada Revised Statutes.**

   Public notice has been given as required in the NRS and the City of Fernley Development Code. The

public hearing to be held on July 8, 2026, will fulfill the requirement for a public hearing. The public notice was completed on June 24, 2026, in the Reno Gazette Journal and by mail.

RELEVANT LAWS, STATUTES, AND REGULATIONS:

Nevada Revised Statutes (NRS) Chapter 278 – Planning and zoning

Fernley Municipal Code (FMC) – Title 32 – Development Code

FMC 32.09.090 – Landscaping

FMC 32.09.100 – Lighting

FMC 32.09.120 – Parking and loading

FMC 32.09.090(i) – Trash enclosures

FMC 32.07.440 – Travel center

FMC 32.02.030 - Definitions

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Conditions of Approval_Final
2. Site Plan
3. 11-Color Example for Building Elevations_reduced
4. 1_A1aa-ab_Interior Plan
5. Landscape Plan
6. 6_Trash Enclosure concept

Conditions of Approval (CUP26002)
CONDITIONAL USE PERMIT – PILOT TRAVEL CENTER EXPANSION

SCOPE AND DURATION OF APPROVAL

1. **APPROVAL:**
   This Conditional Use Permit is approved as conditioned herein. Any substantive change shall require review and approval by the Planning Commission as an amendment to this Conditional Use Permit.

2. **PROJECT DESCRIPTION:**
   The project approval pertains to the 1,829 square foot expansion of the existing 10,530 square foot building and completion of a re-pipe and fuel system upgrade at the existing Pilot Travel Center located at 465 W Main Street (APN: 021-061-34) in a Commercial (C2) zoning district.

3. **EXPIRATION DATE:**
   The Conditional Use Permit shall expire one (1) year from the date of approval, unless the permitted use has been established or construction to accommodate that use has begun and is being diligently pursued. A one-year extension may be granted by the Planning Commission if requested prior to the expiration date of the Conditional Use Permit.

4. **GOVERNING DOCUMENTS:**
   All City of Fernley Municipal Code (FMC) or Development Code references herein pertain to the most recent version unless otherwise noted. The developer may substitute requirements established in future FMC updates, if approved by the Administrator.

   The developer shall also comply with all standards found within the "City of Fernley Department of Public Works Design Standards & Review Guidelines" of March 2024, the "City of Fernley Standard Details for Public Works Construction" of July 2022, and the "City of Fernley Comprehensive Master Plan" of April 2024.

DESIGN STANDARDS

5. **DESIGN STANDARDS:**
   The developer shall comply with the City of Fernley Municipal Code. If there is any conflict with other local or state regulations, the more stringent regulation will take precedence. The developer shall follow Fernley Municipal Code (FMC) requirements for the use "travel center" as defined by FMC Section 32.07.190.

6. **LANDSCAPING/IRRIGATION PLANS:**
   Per FMC 32.09.090(a)(2) the applicant shall provide a proportionate amount of landscaping compared to the expansion percentage. The calculation is as follows:

Existing building	10,530 square feet
Expansion	1,829 square feet or 17.4% increase
Zoning	C2 = 15% requirement
.174 x .15 = 2.61%	**.0261 x 395,089 square feet = 10,293 square feet**

The proposed landscaping for the project meets the proportionate amount of additional required landscaping. The landscaping shall be maintained by the property owner at all times, including the replacement of any dead landscaping.

7. PHOTOMETRIC PLAN:
There are no proposed changes to the current lighting on the site. Applicant provided detailed photometric plan for current lighting, and it meets requirements.

8. PARKING:
Per FMC 32.09.120 – Parking and loading, the use of this project is described as a "travel center" which requires 1 parking space per 300 square feet of building square footage; therefore, there are 44 parking spaces required. The current use has 145 parking spaces which exceeds the minimum parking requirement. The project meets parking requirements and there are no proposed changes to the current parking spaces.

9. TRASH ENCLOSURES:
Applicant provided a detailed trash enclosure plan to demonstrate proposed changed to current trash enclosure on site to be in compliance with FMC 32..09.0909i).

DIMENSIONAL STANDARDS

10. BUILDING HEIGHT:
Per FMC 32.06.100-1, the building height of 25'8" is within the requirements for a Commercial (C2) building. The project has no proposed changes to the current building height.

CONSTRUCTION PHASE

11. CONSTRUCTION MAINTENANCE:
The developer shall locate a sufficient number of trash containers on site to be used during the construction of the project to maintain the project site in a clean and orderly state, to the approval of the Administrator.

12. PROJECT CONTACT:
The developer shall designate to the Administrator a project contact person responsible for and authorized to correct problems regarding the project on a 24-hour/7-day-per-week basis. The developer shall designate the project contact person to the Administrator prior to issuance of a grading permit or site improvement permit.

13. CONSTRUCTION HOURS:
The developer shall limit all construction and construction-related activities to between the hours of 7:00 am and 7:00 pm, seven days per week. The developer shall install signs at all access points to the project that clearly indicate the hours of on-site activity prior to the start of any construction-related activities, subject to the approval of the

Administrator. The developer shall maintain these signs in good repair for the duration of the construction of the project. Once construction is finished, the developer shall remove these signs.

14. FUEL SPILL CLEANUP:

Pilot Travel Centers LLC will be responsible for cleanup and all costs associated with spill cleanup that may potentially happen with the re-pipe and fuel system upgrades.

BUILDING PERMIT INSPECTION REQUIREMENTS

15. BUILDING PERMIT:

The developer shall submit a building permit application for review and approval by the Building Official prior to beginning construction.

REGULATORY AGENCIES

16. NORTH LYON COUNTY FIRE PROTECTION DISTRICT:

The developer shall comply with all requirements of the North Lyon County Fire Protection District, including but not limited to: developing a plan to provide adequate emergency access throughout the site, developing a master fire hydrant and fire flow plan, developing a master fire department connection (FDC) plan, and installing fire suppression and/or alarm systems, to the approval of the Fire Marshal, prior to issue of a building permit.

17. FEDERAL, STATE, AND LOCAL AGENCIES:

The developer shall comply with all requirements of any federal, state, or local agency, department, or licensed professional with jurisdiction over the project including, but not limited to: the Bureau of Reclamation (BOR), the Nevada Department of Transportation (NDOT), the Nevada Department of Environmental Protection (NDEP), the Nevada Division of Water Resources (NDWR), the Nevada State Environmental Commission, Truckee Carson Irrigation District (TCID), the City of Fernley Building Official, the City of Fernley Public Works Department, and the City of Fernley professional land surveyor.

EXISTING BUILDING INFORMATION

PER SECTION 504.1 OF THE EXISTING BUILDING CODE THIS PROJECT IS CONSIDERED A LEVEL 1 ALTERATION. PER SECTION 804.2.2, EXCEPTION 2 THE AREA OF ALTERATION IS LESS THAN 50% OF THE TOTAL FLOOR AREA.

EXISTING BUILDING:	8,929 SQ. FT.	
LEVEL 1 ALTERATIONS:	4,522 SQ. FT.	50.64%
LEVEL 2 ALTERATIONS:	2,793 SQ. FT.	31.28%
AREA OF ADDITION:	2,059 SQ. FT.	
AREA OF NO SCOPE:	1,614 SQ. FT.	18.08%
TOTAL BUILDING AREA:	10,988 SQ. FT.	

(AREA OF LEVEL 2 ALTERATIONS IS 31% OF EXISTING BUILDING AREA)

1 KEY PLAN - FOR REFERENCE ONLY
SCALE: N.T.S.

PROJECT CODE AND ZONING INFORMATION

REGULATORY

JURISDICTIONAL AUTHORITY	CITY OF FERNLEY, NEVADA	
APPLICABLE CODES		
	2018 INTERNATIONAL BUILDING CODE (INCLUDING ADOPTED APPENDIX C, E, H AND I)	
	2018 INTERNATIONAL PLUMBING CODE (INCLUDING APPENDIX B, E AND F)	
	2018 INTERNATIONAL MECHANICAL CODE	
	2018 INTERNATIONAL FUEL GAS CODE	
	2018 INTERNATIONAL ENERGY CONSERVATION CODE	
	2018 INTERNATIONAL FIRE CODE (INCLUDING APPENDIX B, C AND D)	
	2017 NATIONAL ELECTRIC CODE	
	2018 INTERNATIONAL EXISTING BUILDING CODE	

PROJECT LOCATION

BUILDING REQUIREMENTS

BUILDING CODE	MOTOR FUEL - DISPENSING FACILITIES (§309.1)		
OCCUPANCY TYPE (CHAPTER 3)	GROUP A-2 ASSEMBLY (§303)		
	ASSEMBLY GROUP A-2 - RESTAURANTS AND SIMILAR DINING FACILITIES W/COMMERCIAL KITCHENS(§303.3)		
	GROUP M - MERCANTILE (§309)		
	GROUP S - STORAGE (§311)		
	MODERATE-HAZARD STORAGE GROUP S-1 (§311.2) - CARDBOARD BOXES, TOBACCO, FOOD, ETC. (RETAIL STORAGE)		
	NOTE: PER SECTION 508.3.1 THIS IS A NON-SEPARATED, MIXED USE FACILITY WITH THE MORE RESTRICTIVE REQUIREMENTS OF A GROUP A-2 BEING APPLIED TO THE ENTIRE FACILITY		
CONSTRUCTION TYPE (CHAPTER 6)	TYPE V B - FULLY SPRINKLERED (§ 602.5)		
LIMITS OF CONSTRUCTION TYPE	ALLOWABLE HEIGHTS (TABLE 504.3)	N/A	
	OCCUPANCY CLASSIFICATION:	GROUP M	
	ALLOWABLE BUILDING HEIGHT IN FEET:	40 FT (UN-SPRINKLERED)	
	TOTAL BUILDING HEIGHT PROVIDED:		
	ALLOWABLE BUILDING AREA (TABLE 506.2)	25'-8" (1-STORY)	
	OCCUPANCY CLASSIFICATION:	GROUP M	
	ALLOWABLE BUILDING AREA IN SQUARE FEET:	12,000 (NS)	
	AREA INCREASE FACTOR FOR FRONTAGE (506.3)	[1+0.25] * 30/30 = 0.75	
	AREA INCREASE FOR FRONTAGE (506.2.4)	6,750	
	ALLOWABLE BUILDING AREA:	15,750	
	TOTAL BUILDING AREA PROVIDED:	12,755	

FIRE CODE

FIRE PROTECTION REQUIREMENTS

FIRE RESISTANCE RATINGS

REQUIREMENTS FOR BUILDING ELEMENTS (TABLE 601)	CONSTRUCTION TYPE	BUILDING VB (SPRINKLERED)		
	STRUCTURAL FRAME	0 HR		
	BEARING WALLS			
	EXTERIOR	0 HR		
	INTERIOR	0 HR		
	NONBEARING WALLS AND PARTITIONS (TABLE 602)			
	EXTERIOR (> OR EQUAL TO 30FT)	0 HR		
	EXTERIOR (<5FT)	1 HR		
	INTERIOR	0 HR		
	FLOOR CONSTRUCTION (INCLUDING SECONDARY)	0 HR		
	ROOF CONSTRUCTION (INCLUDING SECONDARY)	0 HR		
fFIRE AND SMOKE PROTECTION (CHAPTER 7)	OCCUPANCY GROUP	GROUP A		
	FIRE WALLS (§706)	NONE REQ'D		
	FIRE BARRIERS (§707)	NONE REQ'D		
	INCIDENTAL USES (TABLE 509)	0 HR (SPRINKLERED)		
	SEPARATED OCCUPANCIES (TABLE 508.4)**	1 HR (SPRINKLERED A TO S-1)	**NOTE: PER 508.2.4 S-1 IS	
	FIRE PARTITIONS (§708)		LESS THAN 10% AGGREGATE	
	CORRIDORS (TABLE 1020.1)	0 HR (SPRINKLERED)	AREA THEREFORE	
	SMOKE BARRIERS (§709)	NONE REQ'D	CONSIDERED ACCESSORY	
	SMOKE PARTITIONS (§710)	INCIDENTAL USE AREAS	AND NON-SEPARATED	

OCCUPANT LOAD

MAXIMUM AREA ALLOWANCES PER OCCUPANT (TABLE 1004.1.2)	REFER TO SHEET CS3

EXIT CAPACITY & TRAVEL DISTANCE

MAX. TRAVEL DISTANCE (TABLE 1017.2)	250 FT (GROUP A, M and S-1 - SPRINKLERED)
MAX. DEAD END CORRIDOR (1020.4)	20 FT (GROUP A) - EXCEPTION 2: 50 FT (GROUPS M and S-1 - SPRINKLERED)
EGRESS WIDTH PER PERSON SERVED	HORIZONTAL EXITS = 0.15 INCHES PER OCCUPANT (1005.3.2, EXCEPTION 1 - SPRINKLERED) - USED 0.20 INCHES PER OCCUPANT IN CALCULATIONS
CALCULATED EGRESS WIDTHS (1005)	STAIRS = 0.2 INCHES PER OCCUPANT (1005.3.1, EXCEPTION 1 - SPRINKLERED) - USED 0.20 INCHES PER OCCUPANT IN CALCULATIONS
	REFER TO SHEET CS3
MIN EGRESS CORRIDOR WIDTH	44 INCHES REQUIRED (§1020.2)
MIN CLEAR WIDTH OF EXIT DOORS	32 INCHES REQUIRED (§1010.1.1)
MIN EGRESS STAIR WIDTH	44 INCHES REQUIRED (§1011.2) - 36 INCHES REQUIRED IF SERVING OCCUPANT LOAD LESS THAN 50 (§1011.2, EXCEPTION 1)
ARRANGEMENT & NUMBER OF EXITS	REFER TO SHEET CS3
NUMBER OF EXITS FOR BUILDING	MIN 2 EXITS REQUIRED (1006.2)
NUMBER OF EXITS PER SPACE	2 EGRESS DOORS ARE REQUIRED FOR EVERY SPACE WHERE THE OCCUPANT LOAD IS 49 (MERCANTILE, ASSEMBLY) / 29 (STORAGE) OR MORE PERSONS (IBC TABLE 1006.2.1) OR WHERE THE COMMON PATH OF TRAVEL DISTANCE FROM THE MOST REMOTE POINT TO THE EXIT ACCESS FROM THE ROOM . . . EXCEEDS 75 FT (GROUPS A and M) or EXCEEDS 100 FT (GROUP S) (TABLE 1006.2.1)
SEPARATION OF EXITS (SPRINKLERED)	WHEN TWO EXITS ARE REQUIRED EXIT ACCESS DOORS SHALL BE SEPARATED BY A DISTANCE OF NO LESS THAN ONE-THIRD THE LENGTH OF THE MAXIMUM OVERALL DIAGONAL DIMENSION OF THE BUILDING . . . (§1007.1.1, EXCEPTION 2 - SPRINKLERED)
SEPARATION OF EXITS (UN-SPRINKLERED)	WHEN TWO EXITS ARE REQUIRED EXIT ACCESS DOORS SHALL BE SEPARATED BY A DISTANCE OF NO LESS THAN ONE-HALF THE LENGTH OF THE MAXIMUM OVERALL DIAGONAL DIMENSION OF THE BUILDING . . . (§1007.1.1 - UN-SPRINKLERED)

PLUMBING

FIXTURE COUNT (IBC TABLE 2902.1)

BUILDING AREAS	OCCUPANTS	WATER CLOSETS MALE	WATER CLOSETS FEMALE	LAVATORIES MALE	LAVATORIES FEMALE	DRINKING FOUNTAINS	SERVICE SINK
ASSEMBLY (GROUP A-2)	69 OCCUPANTS	1 PER 75 = 1	1 PER 75 = 1	1 PER 200 = 1		1 PER 500 = 1	1 REQ'D
MERCANTILE (GROUP M)	298 OCCUPANTS	1 PER 500 = 1		1 PER 750 = 1		1 PER 1,000 = 1	1 REQ'D
TOTAL BUILDING	367 OCCUPANTS	MALE: 2 REQ'D - 8 PROVIDED		MALE: 2 REQ'D - 6 PROVIDED		2 REQ'D - 1 PROV'D**	1 REQ'D - 1PROV'D
		FEMALE: 2 REQ'D - 7 PROVIDED		FEMALE: 2 REQ'D - 4 PROVIDED			

FIXTURE COUNT NOTES:
IBC TABLE 2902.1 REFERS TO IPC SECTION410 FOR DRINKING FOUNTAINS, PER IPC - SECTION 410.4 "WHERE RESTAURANTS PROVIDE DRINKING WATER IN A CONTAINER FREE OF CHARGE, DRINKING FOUNTAINS SHALL NOT BE REQUIRED". WATER IS AVAILABLE FREE OF CHARGE AT THE SELF-SERVICE FOUNTAIN MACHINES.

LANCE E. CHAMPION REGISTERED No. 9820 ARCHITECT STATE OF NEVADA
11/19/2025

PILOT COMPANY
DESIGN DEPARTMENT
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909
(865) 588-7488

PROJECT INFORMATION AND CODE ANALYSIS

PILOT TRAVEL CENTER
465 PILOT RD
FERNLEY, NV 89408

DATE:	REV.:	REVISION DESCRIPTION:	INT.:

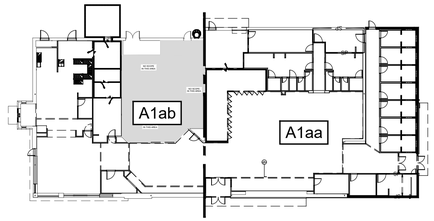
DATE: 11/19/2025 | DRAWN BY: LTF | PROJECT: 340-21

SHEET:
CS-2


pilot
McDonald's
WELCOME
SUBWAY
CINNABON
HELLO
STANTON
ICE


pilot
WELCOME
HELLO
STANTON
SUBWAY
CINNABON
Packaged
ICE
Packaged
ICE
FREE


Pilot
WELCOME
HELLO
STANTON
ICE



2 KEY PLAN
SCALE: N.T.S.

ADDITIONAL PROJECT SCOPE

NOTE: REFER TO SHEET A9v, A9v1,A9v2 or A9v3 FOR ADDITIONAL REQUIREMENTS.

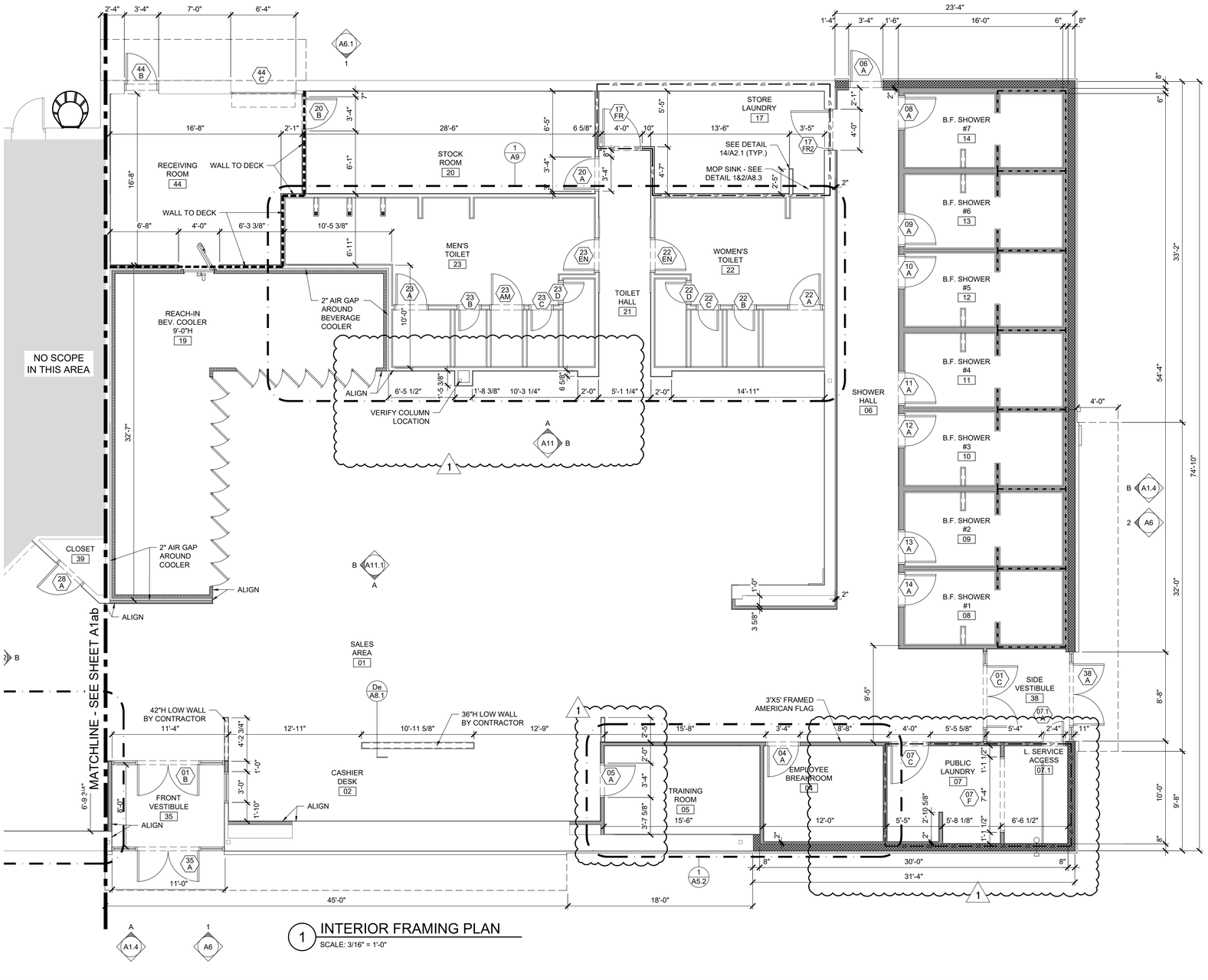
CL03	CONTRACTOR TO "DEEP STEAM CLEAN" ALL CEILING TILE AND GROUT. REPLACE ANY MISSING GROUT TO MATCH. REPAIR/REPLACE EXISTING BROKEN TILES, AND/OR FILL HOLES TO MATCH EXISTING TILE. ALL EXPOSED SEALANT JOINTS ARE TO BE REMOVED AND NEW SEALANT INSTALLED. (REFER TO SHEET A9v2 FOR ADDITIONAL REQUIREMENTS)
RR01	CONTRACTOR TO "DEEP STEAM CLEAN" ALL TILE AND GROUT (WALLS AND FLOORS). REPLACE ANY MISSING GROUT TO MATCH. REPAIR/REPLACE EXISTING BROKEN TILES, AND/OR FILL HOLES TO MATCH EXISTING TILE. ALL EXPOSED SEALANT JOINTS, INCLUDING PLUMBING FIXTURES ARE TO BE REMOVED AND NEW SEALANT INSTALLED.(REFER TO SHEET A9v FOR ADDITIONAL REQUIREMENTS)
RR02	CONTRACTOR TO INSPECT ALL FIXTURES AND ACCESSORIES AND REPLACE ANY DAMAGED, OR PERMANENTLY STAINED MIRRORS, GRAB BAR FIXTURES AND/OR ACCESSORIES WITH NEW. COORDINATE EXTENT OF WORK REQUIRED WITH PILOT'S CONSTRUCTION MANAGER.(REFER TO SHEET A9v FOR ADDITIONAL REQUIREMENTS)

PLAN LEGEND

- EXISTING WALLS
- EXTERIOR INSULATED FRAMED WALL
- INTERIOR PARTITION NON-INSULATED
- SOFFIT ABOVE
- EXTERIOR 2" INSULATED BUILDING PANEL
- HORIZONTAL RIBBED METAL SIDING
- WALL TO DECK SEE PARTITION NOTES
- SMOKE PARTITION
- WALK-IN COOLER / FREEZER WALL
- 18 GA STUDS @12" O.C. AT ALL SHOWER STALLS. SEE DETAILS ON A9.2
- 1-HOUR FIRE WALL SEE PARTITION NOTES

NOTE:
1. ALL INTERIOR METAL STUDS ARE 3 5/8" UNLESS NOTED OTHERWISE.
2. ALL DIMENSIONS FOR INTERIOR WALLS ARE TO INSIDE FACE OF FRAMING.
3. SEE SHEET A1.1 FOR PARTITION NOTES AND LEGENDS.
4. SEE SHEET A1.2 FOR DOOR SCHEDULE AND NOTES.
5. SEE SHEET A1.3 FOR FINISH SCHEDULE AND NOTES.
6. SEE SHEET A3 FOR HEADERS, SOFFITS AND HOOD DIMENSIONS.
7. TOPS OF ALL INTERIOR WALLS TO BE BRACED TO ROOF STRUCTURE ABOVE UNLESS OTHERWISE NOTED. (SEE DETAIL 5.2/A3.1)

NOTE:
1. ALL EXTERIOR METAL STUDS ARE 6" UNLESS NOTED OTHERWISE.
2. ALL DIMENSIONS FOR EXTERIOR WALLS ARE TO FACE OF FRAMING. ALLOW FOR 5/8" EXT. SHEATHING ON OUTSIDE FACE OF WALL AT THE OUTSIDE OF TURNDOWN SLAB - REFER TO STRUCTURAL DRAWINGS.
3. SEE SHEET A1.1 FOR PARTITION NOTES AND LEGENDS.
4. SEE SHEET A1a FOR INTERIOR FRAMING DIMENSIONS.
5. REFER TO PLUMBING AND ELECTRICAL FOR ALL FLOOR PENETRATIONS.



1 INTERIOR FRAMING PLAN
SCALE: 3/16" = 1'-0"

LANCE E. CHAMPION REGISTERED No. 9820 ARCHITECT STATE OF NEVADA
11/19/2025

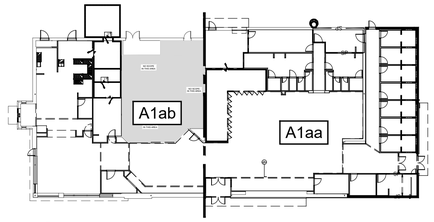
PILOT COMPANY
DESIGN DEPARTMENT
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909
(865) 588-7488

OVERALL AND INTERIOR FRAMING PLAN

PILOT TRAVEL CENTER
465 PILOT RD
FERNLEY, NV 89408

DATE: 11/19/2025	DRAWN BY: LTF	PROJECT: 340-21	INT.: LTF
DATE:	REV:	REVISION DESCRIPTION:	
3/13/2026	1	REVISION #1	

SHEET:
A1aa



2 KEY PLAN
SCALE: N.T.S.

ADDITIONAL PROJECT SCOPE

NOTE: REFER TO SHEET A9v, A9v1,A9v2 or A9v3 FOR ADDITIONAL REQUIREMENTS.

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RR02	CONTRACTOR TO INSPECT ALL FIXTURES AND ACCESSORIES AND REPLACE ANY DAMAGED, OR PERMANENTLY STAINED MIRRORS, GRAB BAR FIXTURES AND/OR ACCESSORIES WITH NEW. COORDINATE EXTENT OF WORK REQUIRED WITH PILOT'S CONSTRUCTION MANAGER.(REFER TO SHEET A9v FOR ADDITIONAL REQUIREMENTS)

PLAN LEGEND

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- EXTERIOR INSULATED FRAMED WALL
- INTERIOR PARTITION NON-INSULATED
- SOFFIT ABOVE
- EXTERIOR 2" INSULATED BUILDING PANEL
- HORIZONTAL RIBBED METAL SIDING
- WALL TO DECK SEE PARTITION NOTES
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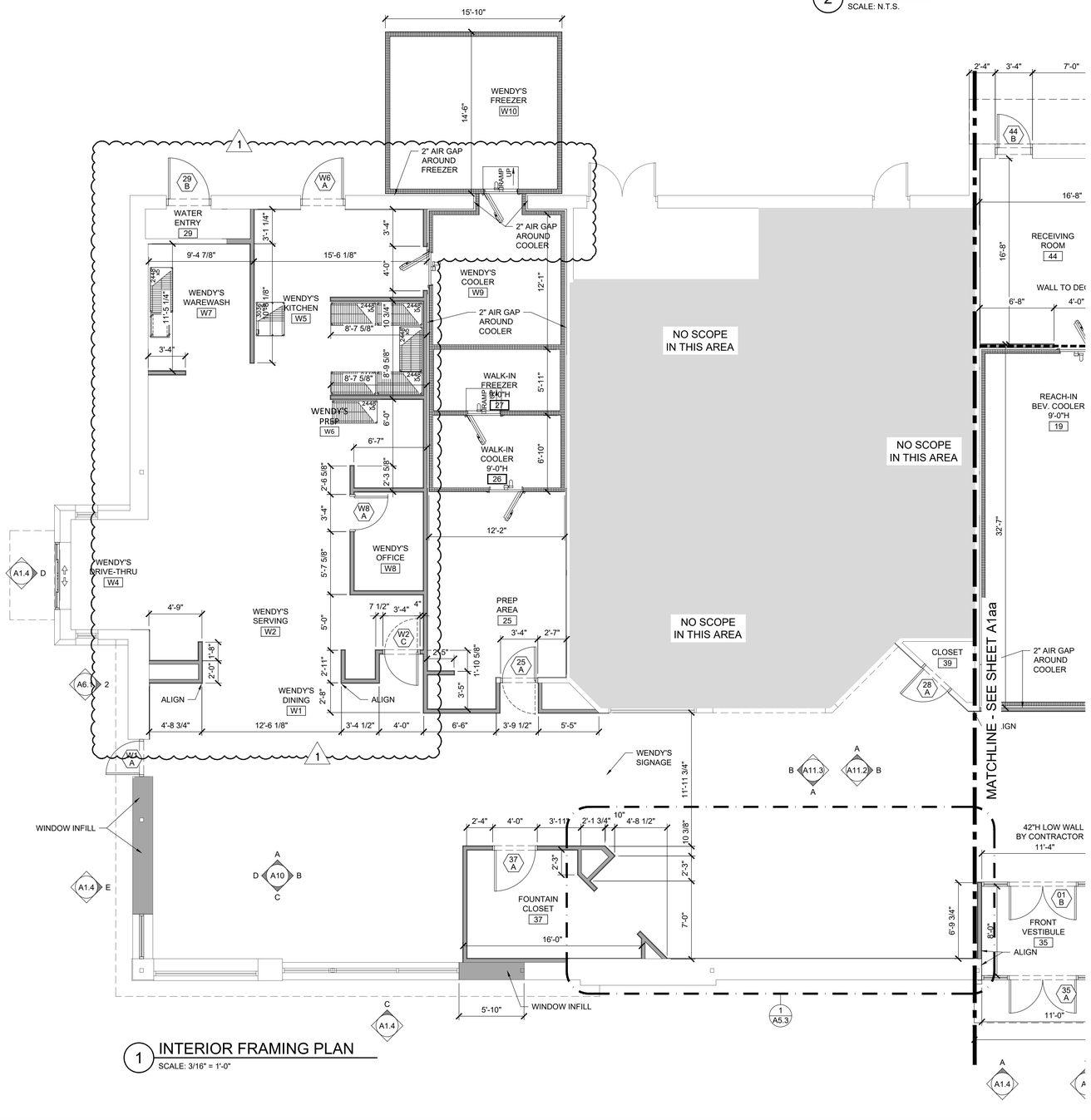

1 INTERIOR FRAMING PLAN
SCALE: 3/16" = 1'-0"

NOTE:
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LANCE E. CHAMPION
REGISTERED
No. 9820
ARCHITECT
STATE OF NEVADA
11/19/2025

PILOT COMPANY
DESIGN DEPARTMENT
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909
(865) 588-7488

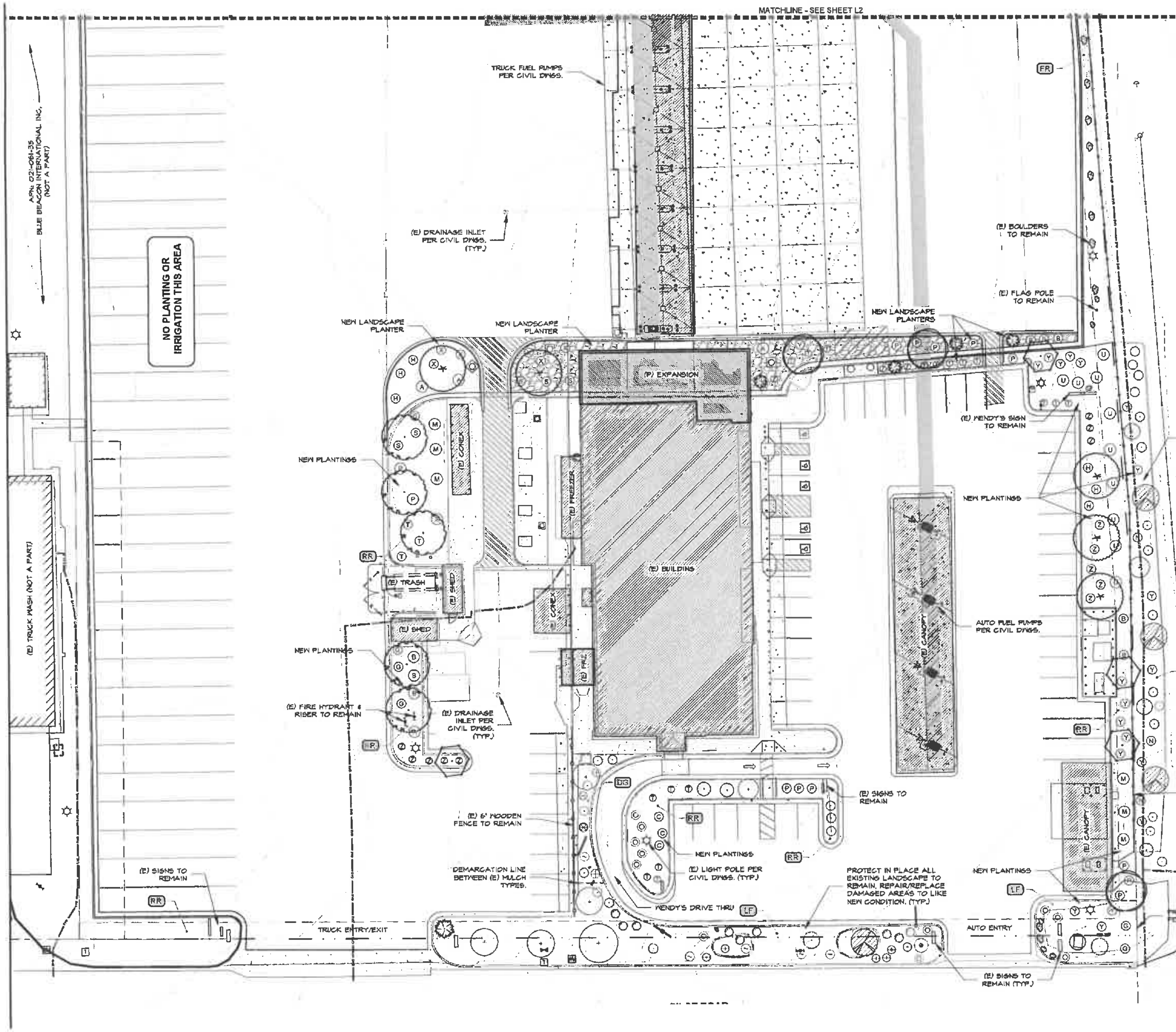
OVERALL AND INTERIOR FRAMING PLAN

PILOT TRAVEL CENTER
465 PILOT RD
FERNLEY, NV 89408

DATE: 11/19/2025 | DRAWN BY: LTF | PROJECT: 340-21

DATE:	REV:	REVISION DESCRIPTION:	INT.:
3/13/2026	1	REVISION #1	LTF

SHEET:
A1ab



LANDSCAPE DATA

SITE AREA: 395,089 SQ FT (9.07 ACRES)
JURISDICTION: CITY OF FERNLEY
APN: 021-061-34

ZONING: C-2 (GENERAL COMMERCIAL)

REQUIRED LANDSCAPE AREA = 10,283 SQ FT
(15% REQUIRED)
- PROPOSED EXPANSION = 1,829 SQ FT
- (E) BUILDING = 10,530 SQ FT

EXPANSION = 1,829/10,530 = 17.4% INCREASE
- .174 * .15 = .0261 OR 2.61%
- .0261 * 395,089 SQ FT = 10,293 SQ FT

PROVIDED LANDSCAPE AREA =10,293 SQ FT MIN.

TREES REQUIRED =
- 1 TREE PER 500 SQ FT OF REQUIRED LANDSCAPE AREA = 21
- PARKING TREES = 0
  (NO NEW PARKING ADDED)

INCLUDES
- 1 TREE PER 30 LN FT OF STREET FRONTAGE

TREES PROVIDED = 21

SHRUBS REQUIRED = 126
- (6 SHRUBS PER REQUIRED TREE)

Kelli Du Fresne
Digitally signed by Kelli Du Fresne
Date: 2026.06.05 14:06:38 -07'00'

SHEET LEGEND

- L1 (E) LANDSCAPE LAYOUT & LANDSCAPE PLAN
- L2 LANDSCAPE PLAN - LEGEND
- L3 LANDSCAPE PLAN - SPECS
- L4 IRRIGATION PLAN
- L5 LANDSCAPE & IRRIGATION DETAILS

L.A. Studio Nevada
the landscape architecture studio
1552 C Street Sparks, NV 89431 (775) 323-2223 NV RLA #440
www.lastudionevada.com

REGISTERED LANDSCAPE ARCHITECT
Kelli DuFresne
1039
6/5/2026
Expires: 6/30/27
STATE OF NEVADA

(E) Landscape Layout & Landscape Plan
PILOT TRAVEL CENTER
Robison Engineering

Fernley Lyon County Nevada

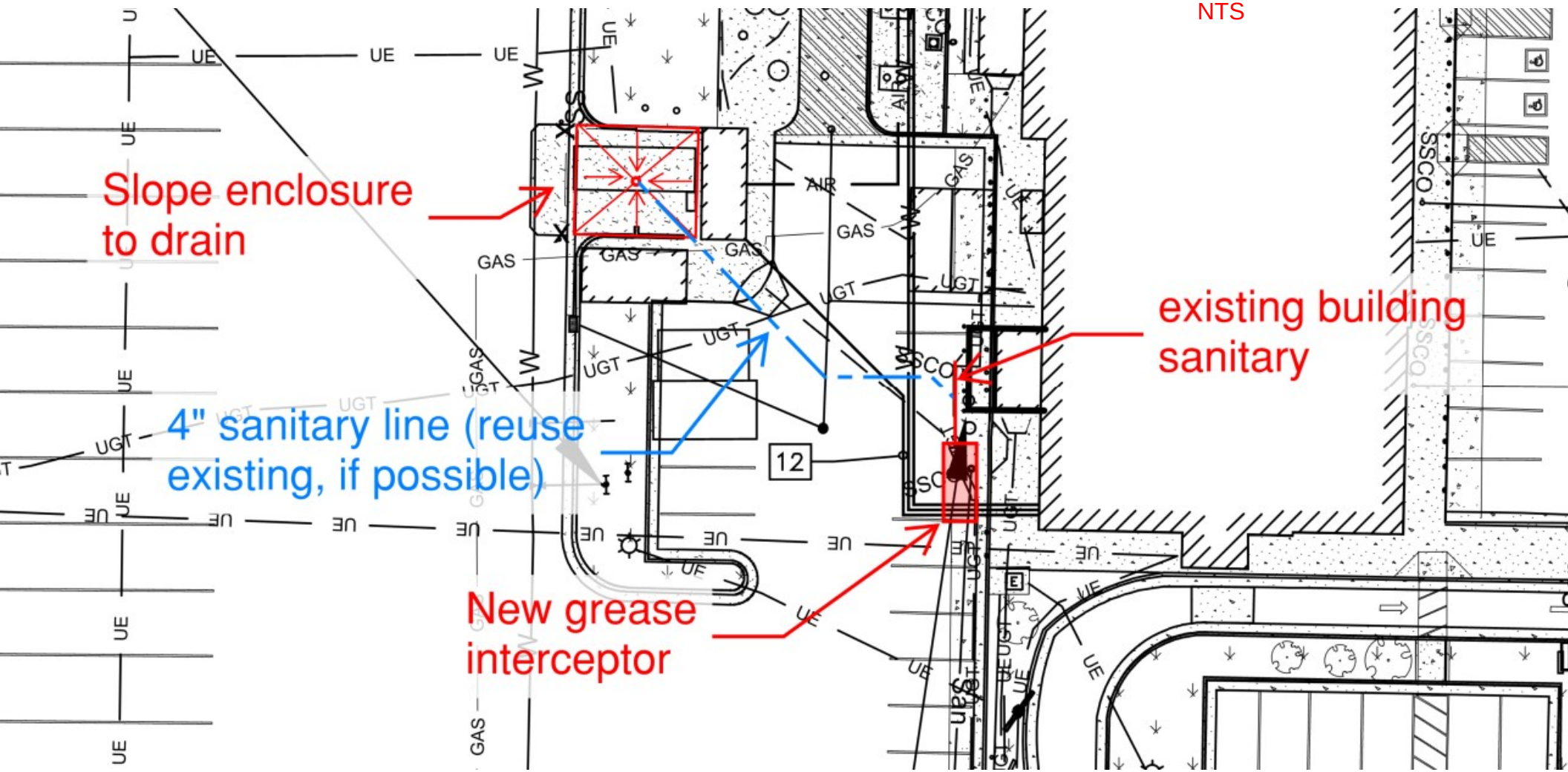
No.	Revision	Date

LA No.	917-520-05-26
Designed	KD
Drawn	DJ
Checked	RYH
Date	6/5/2026

Sheet L1 of 5

PILOT FERNLEY EXPANSION
TRASH ENCLOSURE PLAN

NORTH
NTS



CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: July 8, 2026

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Lisa Warner**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: N/A	Yes:	No: N/A	N/A

ACTION REQUESTED: Ordinance
Motion

AGENDA ITEM:

(For Possible Action) Discussion and possible action to recommend that the City Council approve Bill #390 (CA26002), an Ordinance to amend Section 32.02.030 and Section 32.03.050 of the Fernley Development Code to add a definition for a Minor Conditional Use Permit and to add a Minor Conditional Use Permit as an entitlement process.

AGENDA ITEM BRIEF:

The current Conditional Use Permit process is written in such a way that focuses on the development of a vacant parcel. This includes a full Engineering review and the costs associated with that. Planning Staff has created a Minor Conditional Use Permit that is more focused on simple changes of use within an existing building. This process would be easier and less expensive than the traditional CUP, which would help smaller businesses find locations within the City of Fernley.

RECOMMENDED MOTION:

"I move to recommend that the City Council approve Bill #390 associated with CA26002 as presented by staff."

BUSINESS IMPACT (per NRS Chapter 237):

A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

"I move to recommend that the City Council deny Bill #390 associated with CA26002 as presented by staff."

"I move to recommend that the City Council approve Bill #390 associated with CA26002 with the following modification(s)_____."

Note: Though no further language has been provided, the Planning Commission may make any other motion consistent with Fernley Planning Commission Rules of Procedure.

BACKGROUND:
Staff is proposing a Minor Conditional Use Permit application which will be used in instances where a Conditional Use Permit would normally be required. However, if there is no new construction proposed, thus eliminating Engineering review, a Minor Conditional Use Permit could be used to establish a proposed use.

In order to assist small business owners and to facilitate the development of areas such as downtown, staff developed a Waiver application process to relax development standards required for an intensification of use, such as landscaping, parking spaces, and curb, gutter, and sidewalk in the downtown area. To further assist small business owners and continue to facilitate development of areas such as downtown, staff has determined that the Minor Conditional Use Permit is the appropriate additional mechanism to relax use standards.

The cost of a Conditional Use Permit can be cost-prohibitive for most small business owners who desire to establish businesses in the downtown area. The required improvements due to the intensification of use can be cost-prohibitive as well.

The fee for a Conditional Use Permit is currently $6,404 and the cost of the Minor Conditional Use Permit is proposed to be reduced to $2,580.

Establishing a Minor Conditional Use Permit will give small business owners a mechanism, in addition to the Waiver application process, to start businesses in areas such as downtown at a reduced cost.

The Minor Conditional Use permit will be in lieu of a conditional use permit if a project meets all the following criteria:

1. The proposed land use requires a conditional use permit pursuant to Section 32.06.150;
2. The project involves no new construction or only minimal exterior modification; and
3. The project does not require engineering review as a prerequisite to the issuance of a building permit.

The Administrator shall determine eligibility for the minor conditional use permit procedure on a project-by-project basis.

The Minor Conditional Use permit application will be reviewed by the Planning Commission. City Council will make the final decision if the Planning Commission's decision is appealed.

In order to approve a Minor Conditional Use Permit, the following findings would be required:

1. The proposed conditional use will be in compliance with the master plan;
2. The conditional use will be compatible with the existing or permitted uses of adjacent properties; and

3. The minor conditional use permit's impacts have been conditioned to address identified impacts.

RELEVANT LAWS, STATUTES, AND REGULATIONS:

Fernley Development Code Section 32.02.030 - Definitions
Fernley Development Code Section 32.03.050 - Entitlements

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Original
2. Revision #7_LW
3. Final Blackline_Final
4. Bill #390 v1

Sec. 32.03.050. - Entitlements.

(d~~b~~) ~~*Minor c*~~*Conditional use permit.*

Purpose: The minor conditional use permit procedure provides a mechanism for the City to evaluate proposed land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts. ~~This subsection promotes the public health, safety and general welfare by providing for special safeguards in the location and design of certain uses in certain zoning districts, and by allowing for minor adjustments in the impact of some regulations as specifically provided elsewhere in this title.~~

(1) *Applicability.*

a. Approval of a minor conditional use permit according to the procedures and criteria in this section is required for the following uses and activities, unless exempted under subsection (2).~~This subsection applies to:~~

1. Use Table and Use Regulations

All principal, accessory, and temporary uses listed or referenced in Section 32.06.150 – Unlisted uses and use table, as requiring a minor conditional use permit or additional standards that require a minor conditional use permit.

~~Any use designated as a conditional use in the use table (chapter 32.06); or~~

2. Specified Development Applications

All land uses and development activities expressly made subject to a minor conditional use permit under this Title. ~~Any other situation where this title requires conditional use approval.~~

~~b. This section does not authorize a use variance, or a deviation based on hardship or difficulty. However, an applicant may combine a request for a variance with a conditional use permit, and the city may process both applications concurrently.~~

~~c. A conditional use permit application may be processed concurrent with a zoning map amendment (rezoning) application.~~

~~d. Multiple applications submitted for a single development project may be processed concurrently to allow for an expedited review and processing schedule for a project. The time frame and approval process for a consolidated application shall follow the~~

~~longest time frame and approval process required from among the multiple applications. For example, multiple applications for zoning map amendment and conditional use permit may be processed concurrently, in which case both applications would be considered based on the more extensive zoning map amendment procedure, and the city council would be the final decision body on both applications unless otherwise provided by law.~~

(2) Exemptions

No minor conditional use permit shall be required for:

a. Accessory Structures

Accessory structures with combined floor areas no larger than 1,000 square feet on each parcel.

b. Additions to Nonresidential Facilities

A structure addition to nonresidential facilities that would require a minor conditional use permit are exempt if the following conditions are met:

1. The addition does not exceed 20 percent of the size of the original development or 20,000 square feet in size, whichever is smaller.
2. The construction of the proposed addition will not materially alter the original minor conditional use permit in that no new use is involved in the addition that would itself require a minor conditional use permit, no potentially deleterious aspect of the development will be increased, the proposed addition will not have significant impacts on neighboring properties, the size of the property has not been increased, and the proposed addition will continue to comply with all conditions of the minor conditional use permit.
3. The exemption provided in this paragraph may be used only once per property.

c. Mixed-Use Districts

Projects that meet the standards of the Section 32.06.090 – Mixed Use.

(2) *Initiation.* The applicant files an application for a minor conditional use permit with the administrator.

(3) *Completeness.* See section 32.03.030

~~(4) *Notice.* See NRS 278.315 and chapter 32.03.~~

(45) *Decision.*

a. For purposes of this section, the approving agency for a minor conditional use permit is:

1. The Administratorplanning commission; or

2. The Planning Commission city council if the Administrator's planning commission's decision is appealed.

b. The planning commission will hold a public hearing within 65 days after the application is filed, unless a longer time or a different process of review is provided in a development agreement (see NRS 278.0201).

bc. The Administratorplanning commission shall:

1. Approve the minor conditional use permit; or

2. Approve the minor conditional use permit with conditions; or

3. Deny the minor conditional use permit, within 30 days of receiving the completed application in accordance with Section 32.03.050(b)(6)(a-e).with or without prejudice;

d. The approving agency may impose conditions on the conditional use permit to safeguard the public health, safety, morals and general welfare. The conditions may address, but are not limited to, compatibility, site design, architecture, landscaping, building materials, access, internal circulation, lighting, signage, parking, operation of the use, the mitigation of potential impacts, and any other criteria permitted by state law.

e. An application may be tabled or continued so long as a new public hearing is held within 65 days after the application is heard, unless a longer time or a different process of review is provided in a development agreement (see NRS 278.0201 and NRS 278.315.2).

f. Within ten days after final action and at the conclusion of any appeal period, the planning commission's administrative secretary or the city clerk will notify the applicant in writing of that action, including any conditions imposed by the planning commission or city council. The planning commission's administrative secretary must also notify the city clerk's office if the planning commission takes final action.

~~g. After a conditional use is approved, the administrator shall issue the permit when all conditions of approval, except for continuing conditions, are satisfied.~~

(6) *Findings for approval.*

a. The approving agency must make findings that the proposed conditional use will be in compliance with the master plan;

b. The conditional use will be compatible with the existing or permitted uses of adjacent properties;

c. The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment;

d. The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities;

e. The conditional use permits impacts have been conditioned to address identified impacts; and

f. Public notice has been given and a public hearing held per the requirements of the development code and the nevada revised statutes.

(7) *Amendments.*

a. A conditional use permit must be amended if:

1. One or more of the conditions of approval cannot be met;

2. There are substantial material changes in the project; or

3. The Administrator determines that proposed changes to an approved project will materially impact surrounding properties.

b. Amendments to conditional use permits must follow the same procedure as for a new application.

(8) *Appeals.* See subsection 32.09.090(e), appeals.

(9) *Scope of approval.*

a. *Compliance certificate.* After the applicant satisfies the conditions of approval, the administrator will issue a certificate indicating that the conditions are satisfied.

b. *Responsibility.* The property owner is responsible for compliance with and maintenance of the conditions of approval of a conditional use permit for a particular use on a particular piece of property.

c. *Duration.*

1. A conditional use permit runs with the land, subject to termination in accordance with the procedures set forth in this section.

2. Upon cessation of an established use for which a conditional use permit has been issued, the approved conditional use permit and any conditions thereto shall run with the land for a period not to exceed one year from the date the business license associated with the use expires.

3. A conditional use permit issued by the administrator is valid until revoked, unless it contains a specified expiration date.

4. If a final subdivision map is recorded on any portion of a project while a conditional use permit for the project is in effect, the use of that portion of the project is considered established, even if construction has not taken place, unless the subdivision map is amended or reverted to acreage.

d. *Rescission.* If any conditions of approval (other than continuing conditions) are not satisfied within one year after final action is taken, or within another time limit specified in the permit, the approval is automatically rescinded.

e. *Expiration of an approved conditional use permit.*

1. An applicant has one year to establish the permitted use after the conditional use permit is approved.

2. If the permitted use is not established or construction to accommodate that use begun and diligently pursued during this time, the conditional use permit becomes null and void. If the use is established during this time, the conditional use permit is valid until revoked unless there is a specific expiration date.

3. The approving agency may extend the expiration date for up to one year if:

A. If a permit holder is unable to establish the permitted use or begin construction to accommodate it within one year or the time specified in the conditional use permit, the approving agency may extend the

expiration date. The extension may not exceed one year beyond the original expiration date. To obtain an extension, the applicant must submit a written request to the approving agency before the permit expires.

f. If the administrator has reason to believe that a conditional use permit is subject to revocation, the administrator may institute proceedings to revoke the permit. Before revoking any conditional use permit, the body which approved it must hold a public hearing as provided in this chapter.

1. The administrator may revoke a conditional use permit if:

A. The permit holder violates any condition of the permit;

B. The permitted use becomes a public nuisance; or

C. The permit was granted on the basis of false statements or fraudulent application.

(10) *Recordkeeping.* The administrator and the applicant shall maintain a record of the conditional use permit.

Sec. 32.02.030. - Definitions.

Minor conditional use permit. A permit required as a prerequisite to the establishment of certain uses in certain zoning districts. Uses ~~requiring~~ that may be approved through a minor conditional use permit are specified in the use table (~~Chapter~~Section 32.06.150) as a C (Conditional Use Permit), subject to the requirements of Section 32.03.050. ~~Administrator shall make the determination on a project-by-project basis on the appropriateness of~~The Administrator shall determine, on a project-by-project basis, the appropriateness of a minor conditional use permit versus a conditional use permit.

Sec. 32.03.050. - Entitlements.

(d) *Minor conditional use permit.*

Purpose: The minor conditional use permit procedure provides a mechanism for the City to evaluate proposed land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts.

(1) *Applicability.* In lieu of a conditional use permit, a

~~a. A~~ minor conditional use permit may be approved according to the procedures ~~and criteria~~ in this section~~, in lieu of a conditional use permit,~~ for a project that meets all of the following criteria~~, unless exempted under subsection (2)~~:

a. The ~~project would otherwise~~proposed land use requires a conditional use permit pursuant to Section 32.06.150~~under the use and activity provisions identified in paragraphs 1 and 2 below~~;

b. ~~the~~ The project involves no new construction or only minimal exterior modifications; and

c. ~~the~~ The project does not require engineering review as a prerequisite to the issuance of a building permit.

If a project would otherwise require a conditional use permit but does not meet the construction-scope or engineering review criteria, the project shall be processed as a conditional use permit. The Administrator shall determine eligibility for the minor conditional use permit procedure on a project-by-project basis.

~~1. Use Table and Use Regulations~~

~~All principal, accessory, and temporary uses listed or referenced in Section 32.06.150 – Unlisted uses and use table, as requiring a conditional use permit or additional standards that require a conditional use permit.~~

~~2. Specified Development Applications.~~

~~All land uses and development activities expressly made subject to a conditional use permit but do not require engineering review or approval under this Title.~~

(~~2~~) *Initiation.*~~Exemptions.~~ ~~Notwithstanding the requirements of subsection (1) above, No a minor conditional use permit shall not be required for:~~ The applicant files an application for a minor conditional use permit with the Administrator.

Commented [CM1]: I would delete the exemptions because the minor CUP process is essentially already an exemption from normal requirements.

~~a. Accessory Structures~~

~~Accessory structures with combined floor areas no larger than 1,000 square feet on each parcel.~~

~~b. Additions to Nonresidential Facilities~~

~~A structure addition to nonresidential facilities that would require a minor conditional use permit are~~is ~~exempt if the following conditions are met:~~

1. ~~The addition does not exceed 10 percent of the size of the original development or 10,000 square feet in size, whichever is smaller.~~
2. ~~The construction of the proposed addition will not materially alter the original conditional use permit in that no new use is involved in the addition that would itself require a conditional use permit, no potentially deleterious aspect of the development will be increased, the proposed addition will not have significant impacts on neighboring properties, the size of the property has not been increased, and the proposed addition will continue to comply with all conditions of the conditional use permit.~~
3. ~~The exemption provided in this paragraph may be used only once per property.~~

~~c. Mixed- Use~~Mixed-Use ~~Districts~~

~~Projects that meet the standards of the Section 32.06.090 – Mixed Use.~~

(2~~3~~) *Initiation.* The applicant files an application for a minor conditional use permit with the Administrator.

(~~3~~4) *Completeness.* See section 32.03.030

(4) *Noticing*. See section 32.03.020

(~~5~~5) *Decision.*

a. For purposes of this section, the approving agency for a minor conditional use permit is:

1. The ~~Administrator~~Planning Commission; or

2. The ~~Planning Commission if the Administrator's~~City Council if the Planning Commission's decision is appealed.

b. The ~~Administrator~~Planning Commission shall consider the application at a public hearing held within 65 days after the application is filed, with notice of the hearing given in the manner required by NRS 278.315, and shall:

1. Approve the minor conditional use permit; or

2. Approve the minor conditional use permit with conditions; or

3. Deny the minor conditional use permit, ~~within 30 days of receiving the completed application in accordance with Section 32.03.050(b)(6)(a-e)~~in accordance with the findings required by subsection (6) of this section.

4. The ~~Administrator~~Planning Commission may impose conditions on the minor conditional use permit to safeguard the public health, safety, morals and general welfare. The conditions may address, but are not limited to, compatibility, site design, architecture, landscaping, building materials, access, internal circulation, lighting, signage, parking, operation of the use, the mitigation of potential impacts, and any other criteria permitted by state law.

(~~6~~6) *Findings for approval.*

a. The ~~Administrator~~Planning Commission must make the following findings:

1. The proposed conditional use will be in compliance with the master plan;

2. The conditional use will be compatible with the existing or permitted uses of adjacent properties; and

3. The minor conditional use permit's impacts have been conditioned to address identified impacts.

b. In making its decision, the Planning Commission must consider:

3.1. The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

4.2. The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities; and.

5. The minor conditional use permits impacts have been conditioned to address identified impacts.

(77) *Amendments.*

a. A minor conditional use permit must be amended if:

1. One or more of the conditions of approval cannot be met;

2. There are substantial material changes in the project; or

3. The Administrator determines that proposed changes to an approved project will materially impact surrounding properties.

b. Amendments to minor conditional use permits must follow the same procedure as for a new application.

(88) *Appeals.* See section 32.03.090

a. Applicability.

1. This section applies to any decision of the Administrator, Planning Commission, or any other person appointed or employed by the City Council who is authorized to make administrative decisions regarding the use of land under this Title.

2. An applicant or any person aggrieved may appeal a decision subject to subsection (1) if they claim that:

a. The intent of a standard in this Title was incorrectly interpreted.

b. This Title does not apply.

c. A better form of design is proposed that does not require a waiver of the requirements of this Title; or

d. The decision would violate state or federal law.

3. The right to appeal to the Planning CommissionCity Council is waived upon failure to comply with the procedures set forth in this section.

b. Initiation.

1. The appeal is initiated by filing a written notice of appeal with the City Clerk which identifies all pertinent issues within 11 days after the action or decision.

2. The Mayor or any member of the City Council may request review of a Planning Commission action or decision with a written notice to the City Clerk or orally at a meeting of the City Council. Any such notice must be made within 11 days after the action or decision.

c. Completeness. See section 32.03.030

d. Notice. No specific notice is required by this Code. The City will provide notice by mail or email to the applicants or aggrieved parties who request personal notice.

e. Decision.

1. The City Clerk shall set the matter for public hearing at the next available regular meeting of the Planning CommissionCity Council.

2. The Planning CommissionCity Council shall review the matter de novo.

3. The Planning CommissionCity Council may affirm, modify, remand for further consideration or reverse the action or decision.

4. The Planning CommissionCity Council shall render its decision within 60 days after a complete appeal is filed.

f. Approval criteria. In deciding an appeal, the Planning CommissionCity Council will consider the following:

1. The statement of purpose underlying the regulation of the improvement of land expressed in Nevada state law.

2. The plain language of the regulation and principles of interpretation in this chapter and Nevada law; and

3. Any applicable requirement of state or federal law.

g. Subsequent applications. After the Planning CommissionCity Council renders a final decision, the City will not consider an appeal involving the following:

~~1. The same property and issues, including the same regulations of this Title involved in the subject of the appeal; or~~

~~2. Any issues that could have been raised during the original appeal.~~

(99) *Scope of approval.*

~~a. *Compliance certificate.* After the applicant satisfies the conditions of approval, the Administrator will issue a certificate indicating that the conditions are satisfied.~~

b. *Responsibility.* The property owner is responsible for compliance with and maintenance of the conditions of approval of a minor conditional use permit for a particular use on a particular piece of property.

c. *Duration.*

1. A minor conditional use permit runs with the land, subject to termination in accordance with the procedures set forth in this section.

2. An applicant has one year to establish the permitted use after the minor conditional use permit is approved.

3. If the permitted use is not established or construction to accommodate that use begun and diligently pursued during this time, the minor conditional use permit becomes null and void. If the use is established during this time, the minor conditional use permit is valid until revoked unless there is a specific expiration date.

4. Upon cessation of an established use for which a minor conditional use permit has been issued, the approved minor conditional use permit and any conditions thereto shall run with the land for a period not to exceed one year from the date the business license associated with the use expires.

5. If a final subdivision map is recorded on any portion of a project while a minor conditional use permit for the project is in effect, the use of that portion of the project is considered established, even if construction has not taken place, unless the subdivision map is amended or reverted to acreage.

d. *Rescission.* If any conditions of approval (other than continuing conditions) are not satisfied within one year after final action is taken, or within another time limit specified in the permit, the approval is automatically rescinded.

e. If the Administrator has reason to believe that a minor conditional use permit is subject to revocation, the Administrator may institute proceedings to revoke the

permit. Before revoking any minor conditional use permit, the body which approved it must hold a public hearing as provided in this chapter.

1. The ~~Administrator~~Planning Commission may revoke a minor conditional use permit if:

A. The permit holder violates any condition of the permit;

B. The permitted use becomes a public nuisance; or

C. The permit was granted on the basis of false statements or fraudulent application.

(10~~10~~) Post-Decision Actions and Limitations

All common procedures shall apply, with the following modifications:

a. No Building Permit without Approval

1. The minor conditional use permit, as approved by the ~~Administrator~~Planning Commission, shall accompany the plans submitted for building permit approval if applicable for new construction, and all development of the property shall be in accordance with the approved plan.
2. No building permit shall be issued until the minor conditional use permit application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted "at risk", with no refunds due ~~in~~if the minor conditional use permit is not finally approved.

(11~~1~~) Time Limitations and Extensions

a. Time Limitations

1. The use shall be established within one year ~~before it~~after approval of the minor conditional use permit, or the approval expires.

2. The owner or developer shall apply for a building permit for any portion of the project within 12 months of the date of approval of the minor conditional use permit and maintain the validity of that permit, or the minor conditional use permit approval shall be null and void unless a different time limitation was established at the time of final approval based on the characteristics and complexity of the project.

b. Extension by the Administrator

1. The Administrator may extend the time limit by 12 months, if an application is received 30 days prior to the expiration of the minor conditional use permit.

2. No more than one extension of time shall be approved for any project or project phase.

(12) *Recordkeeping.* The Administrator and the applicant shall maintain a record of the minor conditional use permit.

Sec. 32.02.030. - Definitions.

Minor conditional use permit. A permit required as a prerequisite to the establishment of certain uses in certain zoning districts. Uses that may be approved through a minor conditional use permit are specified in the use table (Section 32.06.150) as a C (Conditional Use Permit), subject to the requirements of Section 32.03.050. The Administrator shall determine, on a project-by-project basis, the appropriateness of a minor conditional use permit versus a conditional use permit.

Sec. 32.03.050. - Entitlements.

(d) *Minor conditional use permit.*

Purpose: The minor conditional use permit procedure provides a mechanism for the City to evaluate proposed land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts.

(1) *Applicability.* In lieu of a conditional use permit, a minor conditional use permit may be approved according to the procedures in this section for a project that meets all of the following criteria:

a. The proposed land use requires a conditional use permit pursuant to Section 32.06.150;

b. The project involves no new construction or only minimal exterior modifications; and

c. The project does not require engineering review as a prerequisite to the issuance of a building permit.

If a project would otherwise require a conditional use permit but does not meet the construction-scope or engineering review criteria, the project shall be processed as a conditional use permit. The Administrator shall determine eligibility for the minor conditional use permit procedure on a project-by-project basis.

(2) *Initiation.* The applicant files an application for a minor conditional use permit with the Administrator.

(3) *Completeness.* See section 32.03.030

(4) *Noticing*. See section 32.03.020

(5) *Decision.*

a. For purposes of this section, the approving agency for a minor conditional use permit is:

1. The Planning Commission; or

2. The City Council if the Planning Commission's decision is appealed.

b. The Planning Commission shall consider the application at a public hearing held within 65 days after the application is filed, with notice of the hearing given in the manner required by NRS 278.315, and shall:

1. Approve the minor conditional use permit; or

2. Approve the minor conditional use permit with conditions; or

3. Deny the minor conditional use permit, in accordance with the findings required by subsection (6) of this section.

4. The Planning Commission may impose conditions on the minor conditional use permit to safeguard the public health, safety, morals and general welfare. The conditions may address, but are not limited to, compatibility, site design, architecture, landscaping, building materials, access, internal circulation, lighting, signage, parking, operation of the use, the mitigation of potential impacts, and any other criteria permitted by state law.

(6) *Findings for approval.*

a. The Planning Commission must make the following findings:

1. The proposed conditional use will be in compliance with the master plan;

2. The conditional use will be compatible with the existing or permitted uses of adjacent properties; and

3. The minor conditional use permit's impacts have been conditioned to address identified impacts.

b. In making its decision, the Planning Commission must consider:

1. The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

2. The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.

(7) *Amendments.*

a. A minor conditional use permit must be amended if:

1. One or more of the conditions of approval cannot be met;

2. There are substantial material changes in the project; or

3. The Administrator determines that proposed changes to an approved project will materially impact surrounding properties.

b. Amendments to minor conditional use permits must follow the same procedure as for a new application.

(8) *Appeals.* See section 32.03.090

(9) *Scope of approval.*

a. *Responsibility.* The property owner is responsible for compliance with and maintenance of the conditions of approval of a minor conditional use permit for a particular use on a particular piece of property.

b. *Duration.*

1. A minor conditional use permit runs with the land, subject to termination in accordance with the procedures set forth in this section.

2. An applicant has one year to establish the permitted use after the minor conditional use permit is approved.

3. If the permitted use is not established or construction to accommodate that use begun and diligently pursued during this time, the minor conditional use permit becomes null and void. If the use is established during this time, the minor conditional use permit is valid until revoked unless there is a specific expiration date.

4. Upon cessation of an established use for which a minor conditional use permit has been issued, the approved minor conditional use permit and any conditions thereto shall run with the land for a period not to exceed one year from the date the business license associated with the use expires.

5. If a final subdivision map is recorded on any portion of a project while a minor conditional use permit for the project is in effect, the use of that portion of the project is considered established, even if construction has not taken place, unless the subdivision map is amended or reverted to acreage.

c. *Rescission.* If any conditions of approval (other than continuing conditions) are not satisfied within one year after final action is taken, or within another time limit specified in the permit, the approval is automatically rescinded.

d. If the Administrator has reason to believe that a minor conditional use permit is subject to revocation, the Administrator may institute proceedings to revoke the permit. Before revoking any minor conditional use permit, the body which approved it must hold a public hearing as provided in this chapter.

1. The Planning Commission may revoke a minor conditional use permit if:

A. The permit holder violates any condition of the permit;

B. The permitted use becomes a public nuisance; or

C. The permit was granted on the basis of false statements or fraudulent application.

(10) Post-Decision Actions and Limitations

All common procedures shall apply, with the following modifications:

a. No Building Permit without Approval

1. The minor conditional use permit, as approved by the Planning Commission, shall accompany the plans submitted for building permit approval if applicable for new construction, and all development of the property shall be in accordance with the approved plan.
2. No building permit shall be issued until the minor conditional use permit application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted “at risk”, with no refunds due if the minor conditional use permit is not finally approved.

(11) Time Limitations and Extensions

a. Time Limitations

1. The use shall be established within one year after approval of the minor conditional use permit, or the approval expires.

2. The owner or developer shall apply for a building permit for any portion of the project within 12 months of the date of approval of the minor conditional use permit and maintain the validity of that permit, or the minor conditional use permit approval shall be null and void unless a different time limitation was established at the time of final approval based on the characteristics and complexity of the project.

b. Extension by the Administrator

1. The Administrator may extend the time limit by 12 months, if an application is received 30 days prior to the expiration of the minor conditional use permit.

2. No more than one extension of time shall be approved for any project or project phase.

(12) *Recordkeeping.* The Administrator and the applicant shall maintain a record of the minor conditional use permit.

BILL #390
CITY OF FERNLEY
ORDINANCE #_____

AN ORDINANCE AMENDING SECTION 32.02.030 AND SECTION 32.03.050 OF THE FERNLEY DEVELOPMENT CODE TO ADD A DEFINITION FOR A MINOR CONDITIONAL USE PERMIT AND TO ADD A MINOR CONDITIONAL USE PERMIT AS ENTITLEMENT PROCESS.

THE CITY COUNCIL OF THE CITY OF FERNLEY, hereinafter "the Council", DO HEREBY ORDAIN:

Section 1. Title 32, Chapter 32.03, Section 32.03.030, and Title 32, Chapter 32.03, Section 32.03.050 are hereby amended as follows:

Sec. 32.02.030 – Definitions.

Section 32.02.030 Definitions
The words, terms, and phrases used in this title are below.

Minor conditional use permit. A permit required as a prerequisite to the establishment of certain uses in certain zoning districts. Uses that may be approved through a minor conditional use permit are specified in the use table (Section 32.06.150) as a C (Conditional Use Permit), subject to the requirements of Section 32.03.050. The Administrator shall determine, on a project-by-project basis, the appropriateness of a minor conditional use permit versus a conditional use permit.

Sec. 32.03.050 - Entitlements

Section 32.03.050(d) Minor conditional use permit

(d) *Minor conditional use permit.*

Purpose: The minor conditional use permit procedure provides a mechanism for the City to evaluate proposed land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts.

(1) *Applicability.* In lieu of a conditional use permit, a minor conditional use permit may be approved according to the procedures in this section for a project that meets all of the following criteria:

a. The proposed land use requires a conditional use permit pursuant to Section 32.06.150;

b. The project involves no new construction or only minimal exterior modifications; and

c. The project does not require engineering review as a prerequisite to the issuance of a building permit.

If a project would otherwise require a conditional use permit but does not meet the construction-scope or engineering review criteria, the project shall be processed as a minor conditional use permit. The Administrator shall determine eligibility for the minor conditional use permit procedure on a project-by-project basis.

(2) *Initiation.* The applicant files an application for a minor conditional use permit with the Administrator.

(3) *Completeness.* See section 32.03.030

(4) *Noticing*. See section 32.03.020

(5) *Decision.*

a. For purposes of this section, the approving agency for a minor conditional use permit is:

1. The Planning Commission; or

2. The City Council if the Planning Commission's decision is appealed.

b. The Planning Commission shall consider the application at a public hearing held within 65 days after the application is filed, with notice of the hearing given in the manner required by NRS 278.315, and shall:

1. Approve the minor conditional use permit; or

2. Approve the minor conditional use permit with conditions; or

3. Deny the minor conditional use permit, in accordance with the findings required by subsection (6) of this section.

4. The Planning Commission may impose conditions on the minor conditional use permit to safeguard the public health, safety, morals and general welfare. The conditions may address, but are not limited to, compatibility, site design, architecture, landscaping, building materials, access, internal circulation, lighting, signage, parking, operation of the use, the mitigation of potential impacts, and any other criteria permitted by state law.

(6) *Findings for approval.*

a. The Planning Commission must make the following findings:

1. The proposed conditional use will be in compliance with the master plan;

2. The conditional use will be compatible with the existing or permitted uses of adjacent properties; and

3. The minor conditional use permit's impacts have been conditioned to address identified impacts.

b. In making its decision, the Planning Commission must consider:

1. The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

2. The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.

(7) *Amendments.*

a. A minor conditional use permit must be amended if:

1. One or more of the conditions of approval cannot be met;

2. There are substantial material changes in the project; or

3. The Administrator determines that proposed changes to an approved project will materially impact surrounding properties.

b. Amendments to minor conditional use permits must follow the same procedure as for a new application.

(8) *Appeals.* See section 32.03.090

(8) *Scope of approval.*

a. *Responsibility.* The property owner is responsible for compliance with and maintenance of the conditions of approval of a minor conditional use permit for a particular use on a particular piece of property.

b. *Duration.*

1. A minor conditional use permit runs with the land, subject to termination in accordance with the procedures set forth in this section.

2. An applicant has one year to establish the permitted use after the minor conditional use permit is approved.

3. If the permitted use is not established or construction to accommodate that use begun and diligently pursued during this time, the minor conditional use permit becomes null and void. If the use is established during this time, the minor conditional use permit is valid until revoked unless there is a specific expiration date.

4. Upon cessation of an established use for which a minor conditional use permit has been issued, the approved minor conditional use permit and any conditions thereto shall run with the land for a period not to exceed one year from the date the business license associated with the use expires.

5. If a final subdivision map is recorded on any portion of a project while a minor conditional use permit for the project is in effect, the use of that portion of the project is considered established, even if construction has not taken place, unless the subdivision map is amended or reverted to acreage.

c. *Rescission.* If any conditions of approval (other than continuing conditions) are not satisfied within one year after final action is taken, or within another time limit specified in the permit, the approval is automatically rescinded.

d. If the Administrator has reason to believe that a minor conditional use permit is subject to revocation, the Administrator may institute proceedings to revoke the permit. Before revoking any minor conditional use permit, the body which approved it must hold a public hearing as provided in this chapter.

1. The Planning Commission may revoke a minor conditional use permit if:

A. The permit holder violates any condition of the permit;

B. The permitted use becomes a public nuisance; or

C. The permit was granted on the basis of false statements or fraudulent application.

(10) Post-Decision Actions and Limitations

All common procedures shall apply, with the following modifications:

a. No Building Permit without Approval

1. The minor conditional use permit, as approved by the Planning Commission, shall accompany the plans submitted for building permit approval if applicable for new construction, and all development of the property shall be in accordance with the approved plan.
2. No building permit shall be issued until the minor conditional use permit application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted "at risk", with no refunds due if the minor conditional use permit is not finally approved.

(11) Time Limitations and Extensions

a. Time Limitations

1. The use shall be established within one year after approval of the minor conditional use permit, or the approval expires.

2. The owner or developer shall apply for a building permit for any portion of the project within 12 months of the date of approval of the minor conditional use permit and maintain the validity of that permit, or the minor conditional use permit approval shall be null and void unless a different time limitation was established at the time of final approval based on the characteristics and complexity of the project.

b. Extension by the Administrator

1. The Administrator may extend the time limit by 12 months, if an application is received 30 days prior to the expiration of the minor conditional use permit.

2. No more than one extension of time shall be approved for any project or project phase.

(12) *Recordkeeping.* The Administrator and the applicant shall maintain a record of the minor conditional use permit.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. The City Clerk is instructed and authorized to publish the title of this ordinance as provided by law.

Section 4. This ordinance shall become effective upon passage, approval, and publication.

Section 5. The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare, and convenience.

Section 6. In any subsection, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 7. The City Council finds that this ordinance is not likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation, or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

BILL #390 BEING HEREBY PROPOSED on the _5th_ day of _August_, 2026.

BILL #390 BEING HEREBY PASSED, APPROVED, and ADOPTED this _19th_ day of _August_, 2026, by the following vote of the Council:

Ayes: _____ Nays: _____ Abstentions: _____ Absent: _____

FERNLEY CITY COUNCIL

By: _____ Date: _____
Neal E. McIntyre, Mayor

Attest By: _____ Date:_____
Kim Swanson, City Clerk

CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: July 8, 2026

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Michele Rambo, Planning Director**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: X	Yes:	No: X	N/A

ACTION REQUESTED: Receive/File

AGENDA ITEM:

General Planning Department updates and announcements.

AGENDA ITEM BRIEF:

The Planning Director will update the Planning Commission on any updates or announcements related to the Planning Department. A copy of the June Planning Department monthly report and the June issue of Zoning Practice are also attached for information.

RECOMMENDED MOTION:

None

BUSINESS IMPACT (per NRS Chapter 237):

N/A

See attached report for background, analysis, alternatives.

ALTERNATIVES:

None

BACKGROUND:

None

RELEVANT LAWS, STATUTES, AND REGULATIONS:

N/A

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. Monthly Report June 2026
2. Zoning_Practice-2026-06

June - Sand Harbor State Park

MONTHLY REPORT

JUNE 2026

PLANNING DEPARTMENT
MICHELE RAMBO, AICP, PLANNING DIRECTOR

Projects Submitted

Temporary Use Permits

TUP26003 – LCSO National Night Out (in review) (scheduled August 4, 2026)
TUP26008 – Fernley 4th of July Events (issued) (scheduled June 28-July 5, 2026)
TUP26017 – Check the Chip Day (issued) (scheduled August 15, 2026)
TUP26019 – Jordan World Circus (in review) (scheduled September 24, 2026)
TUP26020 – Wigwam Summer Events (issued) (multiple dates)
TUP26026 – Fernley Junior Rodeo (in review) (scheduled July 17-19, 2026)
TUP26027 – Food Trucks, Brews, and Tunes (issued) (multiple dates)
TUP26028 – Fernley City Hall Craft Fair (in review) (scheduled 7/4/26)
TUP26029 – Pinnacle Medical Group Health Fair (in review) (scheduled 9/12/26)
TUP26030 – All Points Grill Dwarfanators (in review) (scheduled 7/3/26)

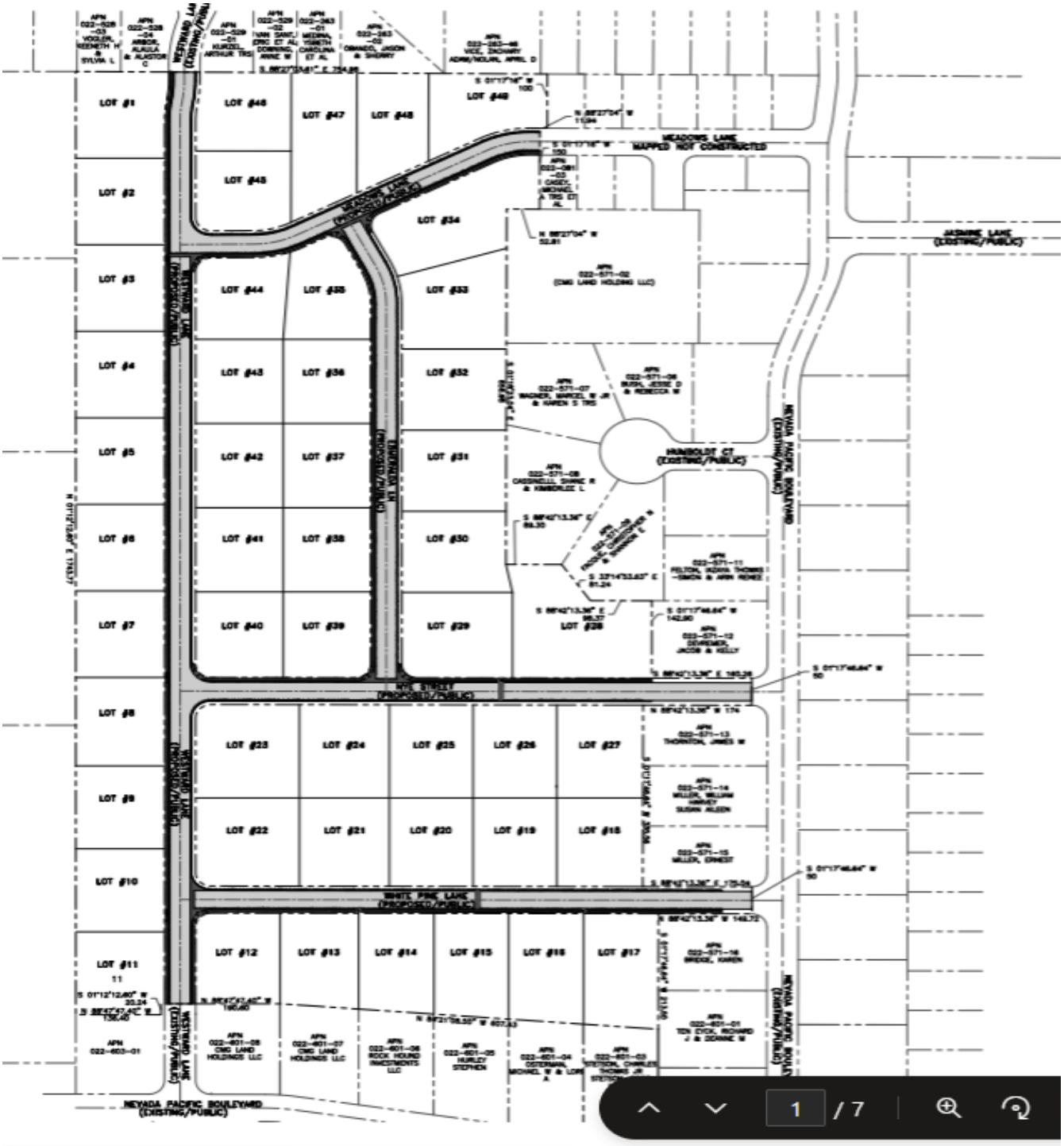
CONDITIONAL USE PERMIT– CUP26003 – HOLIDAY INN

A Conditional Use Permit application request by Falcon Peak Properties LLC to construct a four-story, 96-room extended stay hotel on a ± 1.86-acre site (APN: 021-061-38) located at 700 Mesa Drive in a Commercial (C2) zone.

3

TENTATIVE SUBDIVISION MAP – TSM26002 – NELSON MEADOWS

A Tentative Subdivision Map application request by Rubicon Design Group on behalf of ICON Group, LLC to construct a 49-lot single-family residential community on a ± 32.44-acre site (APN: 022-571-27) located east of Browne Ln and west of Nevada Pacific Parkway at the extension of Westward Ln in a Rural Residential (RR1/2) zone.



Statistics

Active Projects

Total = 22
Entitlements (Admin. Review, Conditional Use Permit) = 3
Land Division (Subdivision, Parcel Map, BLA, etc.) = 11
Legislative (Master Plan/Zoning Amendment, Planned Development, etc.) = 2
Miscellaneous (Deviation, TUP, Variance, Vacation, Waiver) = 6

Processing Time

Overall Average = 2.4 Months
Entitlements (Admin. Review, Conditional Use Permit) = 1.5 Months
Land Division (Subdivision, Parcel Map, BLA, etc.) = 3 Months
Legislative (MP/Zoning Amend., Planned Development, etc.) = 3 Months
Miscellaneous (Deviation, Variance, Vacation) = 2 Months
Temporary Use Permits = 15 Days

Pre-Application Meetings

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2024	3	6	3	8	2	4	4	3	6	7	4	3	53
2025	6	2	1	4	5	5	5	3	6	6	4	1	48
2026	6	2	6	4	5	3	-	-	-	-	-	-	26

Customer Contacts

2026 to date = 3,070
April = 539

Top Three Inquiries

Information Requests

- Setbacks
- Accessory Structures
- Fences

Ongoing Planning Activities

Development Impact Fees

- Staff is in the process of developing impact fees for new development (streets, utilities, parks, public services, and more)
- Capital Improvement Advisory Committee created on May 1, 2024
- Capital Improvement Plan/Impact Fee Study underway

Development Code Update

- Updating to modernize it and clean it up
- Draft of Chapters 1-3 complete
- Small updates being made regularly

Process Streamlining

- Staff is working to streamline the application process/permitting process between the Planning, Building, and Engineering Departments
- Revising applications, updating/creating checklists, standardizing the process with predictable steps
- Participating with other development-related departments to work as a more cohesive group

Ongoing Projects

Comprehensive Master Plan

- **Consultant – Matrix**
- **Public engagement to begin in June/July**

Infrastructure Plan(s) North and Southwest Areas

- **Consultant – Kimley-Horn**
- **Draft Plan expected in October**

Capital Improvement Plan & Impact Fee Study

- **Consultant – Kimley-Horn**
- **Draft Plan/Impact Fee Study expected in December**

South Area Plan

- **Consultant – Kimley-Horn**
- **Draft Plan expected in July 2026**

Upcoming Public Hearings

Planning Commission Meeting 7/8/26

CUP26002 – Pilot Expansion
CA26002 – Minor Conditional Use Permit Code Amendment

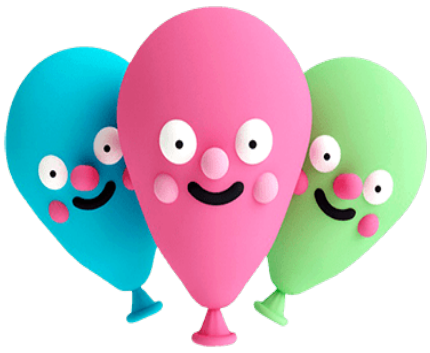
City Council Meeting 7/15/26

Bill #386 – Fernley Power District Ordinance
DA22002AMD1 – Sherwood Development Agreement Amendment

In Other Planning News…

INCOMPLETE APPLICATIONS

*WE WILL NO LONGER BE ACCEPTING INCOMPLETE APPLICATIONS. ALL ITEMS INCLUDED IN THE APPLICATION CHECKLIST MUST BE PART OF THE SUBMITTAL PACKAGE. IF ANY ITEMS ARE MISSING **INCLUDING PAYMENT**, THE APPLICATION WILL AUTOMATICALLY BE DEEMED INCOMPLETE AND WILL BE REJECTED. *



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APA

ZONING PRACTICE

Unique Insights | Innovative Approaches | Practical Solutions

Better Zoning for Reuse and Redevelopment

In this Issue:

Better Zoning for Reuse and Redevelopment

By Donald L. Elliott, FAICP

"The only thing constant is change." We have all heard that for years and we know it to be true. Cities, towns, and counties are constantly evolving as demographic trends, global economic forces, market preferences, and the climate change. But we sometimes forget to reflect that reality in our zoning regulations. Far too often we draft as if neighborhoods and business centers will not change (or change much), and that a careful description of what we want to happen today will stand the test of time. Experience shows, however, that we will constantly be amending those ordinances to create the "breathing room" needed for reasonable reuse and redevelopment over time.

In ***An Even Better Way to Zone*** (Island Press 2025), I explore four key zoning changes needed in the 21st century. The first three are substantive. We need to ensure that our zoning regulations help create (1) more affordable housing, (2) more sustainable and resilient development, and (3) fairer zoning outcomes for historically disadvantaged and vulnerable households. The fourth is overarching. We need to reorient zoning to focus on reuse of existing buildings and redevelopment of existing serviced land rather than initial development. This reorientation is synergistic with the three substantive goals listed above and would help solve a key problem for community governance.

This issue of *Zoning Practice* examines how zoning rules and procedures can better accommodate reuse and redevelopment. It begins by summarizing the case for reorienting zoning around previously developed sites before suggesting specific reform strategies that remove zoning barriers to common reuse and redevelopment projects.

A redevelopment project near downtown Syracuse, New York (Credit: Thomas Berberich/iStock Editorial/Getty Images Plus)

The Case for Reorientation

Three key facts help illustrate the need for reorientation. First, in most communities the vast majority (sometimes 80 or 90 percent) of development decisions involve changes to existing buildings and land. But the zoning regulations seem to imagine what a new building on each site could or should look like. Sometimes they even include a picture of that imagined future. Pictures can help the public to understand zoning outcomes, of course, but unless the regulations behind those pictures allow for substantial flexibility in deviating from the picture and address the reuse and redevelopment of existing buildings that do not match that picture, they have aimed at a false reality.

Second, to paraphrase the conclusion of a 2011 study by the National Trust for Historic Preservation, ***The Greenest Building: Quantifying the Environmental Value of Building Reuse***, truly sustainable development involves a lot of redevelopment. That study documented how long it would take for an extremely efficient and "sustainable" new building to generate enough savings in energy and resources to offset the past investments in labor, energy, and materials that we lost when we demolished the old building. The answer is decades—often several decades.

Finally, although new buildings are constantly being built, the rate at which our housing and building stock expands is relatively slow. Many buildings simply replace old ones and do not result in a net gain in housing units or commercial and industrial space. While it is very important that zoning regulations require (or at least allow) these replacement buildings to be more affordable and sustainable than they often are today, we should not forget that new buildings represent only a small percentage of how cities change over time.

As an example, the U.S. housing stock only expands by one to three percent per year, so zoning that is focused on improving the affordability and sustainability of new buildings is not affecting the vast majority of our building stock. In this sense, we cannot "build our way out of" the current housing affordability challenge because we cannot build housing units fast enough. Zoning that addresses the modification, retrofitting, reuse, and redevelopment of existing buildings has a much better chance of closing the absolute gap in housing supply in many communities. Similarly, zoning that takes existing buildings as a resource to be optimized rather than something to be replaced has a much better chance of reducing energy and material consumption than one focused on new buildings.

These facts—and the recommendations below—apply regardless of whether your community thinks it has a "form-based" or a "use-based/Euclidean" zoning code because that is an unhelpful dichotomy. All codes contain controls on the scale, size, or form of permitted buildings *and* controls on the allowed uses within those buildings and on property in general. The apparent distinction between form- and use-based codes has more to do with which topic receives priority in the structure and presentation of regulations. So-called form-based codes first regulate what types of buildings can be built and treat the allowed uses in those buildings as a secondary matter. So-called use-based codes do the opposite. Regardless of which receives priority, both can contain barriers that prevent reuse and redevelopment of property in more affordable and sustainable ways. More importantly, both form and use controls can be overused in ways that exclude historically disadvantaged and vulnerable households and businesses.

Zoning regulations that make reuse and redevelopment more difficult make it more difficult to affordability expand housing supply (Credit: Holly White, Clarion Associates).

Better Zoning Rules

The unhelpful focus of zoning on new development rather than redevelopment is often embedded in facially neutral rules that need to be adjusted to allow more flexibility for existing buildings and serviced lands (or removed altogether). Sometimes you need to qualify a rule to avoid applying it where you did not intend, and sometimes you need to start with an eraser. Let's look at each basic type of development regulation in turn: building form controls, building use controls, and building and site development standards.

Building Form, Scale, and Size

Several years ago, I was asked to codify a very detailed place-making plan for a large downtown area. The new plan imposed a new and very different street grid to be enclosed by beautiful new buildings and prioritized building form over use controls. The problem was that it assumed that every building in each of the new zone districts would be a new building that could create street frontage on the (then imaginary) new street. It made no allowance for the fact that most properties were already occupied by buildings that were located far from those streets and did not match the forms called for in the plan. It ignored the basic truth that many existing buildings have lots of life left in them. They may have multiple rounds of reuse and modification in their futures before someone eventually decides that a brand-new building is needed. Zoning regulations that assume an existing building built under very different zoning controls can somehow "morph" into a very different form of building are not doing either the city or the property owner any favors.

One way to allow for more affordable and sustainable reuse of existing buildings is to pay more attention to "triggers" (i.e., the point at which new regulations will apply to existing buildings). This is particularly important for building form controls, because building forms cannot be altered as easily as allowed uses, and because overly broad applicability of form controls can result in incentivizing the replacement of buildings that have significant additional life left in them. If the owner decides to replace a building, that is fine, but the zoning regulations should not be forcing that decision. Keep in mind that new buildings are often built and financed by those with more resources, and that those with fewer resources (which often includes small businesses and women-, disabled-, and veteran-owned business) are often more likely to be involved in modifying existing businesses at lower cost. Our form regulations can have equity consequences.

The simplest answer is to clarify that

A shopping center in Doraville, Georgia (Credit: Carmen K Sisson/ iStock Editorial/ Getty Images Plus).

the defined building types or frontage types only apply when there is an application to construct a new building on the lot or parcel, and that additions and modifications to an existing building are exempt. A second potential answer is to specify a level of investment (i.e., a percentage of the current building's assessed value) or expansion (i.e., a percentage increase in building area or footprint) will trigger the applicability of new form controls. And that applicability trigger does not have to be all or nothing. The code can specify that additions to the street facing facades of the building must meet some or all of the new form controls on facade design while leaving other facades of the building exempt from "360-degree architecture" requirements. It can also exempt building additions from minimum height/story requirements in form-controls, since many one- or two-story buildings were not built with structures that can support more height and forcing taller additions to low-rise buildings often makes little sense.

Two final changes would make form controls more flexible to promote building reuse. The first is to draft an administrative adjustment provision allowing specific form regulations to be adjusted or waived when they are (1) inconsistent with the existing structural design or engineering of the building or (2) inconsistent with a proposed reuse of the building that aligns with the comprehensive plan. Examples where administrative adjustments are useful include street window requirements for buildings that process confidential or sensitive information and street pedestrian-access requirements for buildings located on significant slopes where possible access points do not align with floor structure. All these issues can be addressed through variances, of course, but administrative procedures that recognize the realities of existing buildings, existing site designs, and the value of continued building use (even if it is not the most preferred use) save avoidable time and expense.

Building and Site Use

As zoning controls evolved through the 20th century, building form controls remained fairly simple until late in the century, while building use controls got very complicated very fast. I think this is because the predominant "Euclidean" form of zoning emphasized use over form, and because use controls can be effective much faster than form controls. As discussed above, form controls are most effective when applied to new buildings, and most development approvals do not involve new buildings. In contrast, allowed use controls can be effective each time the proposed use of a building or site changes. So dissatisfaction with the trajectory of the community often focused on allowing, incentivizing, or prohibiting specific uses rather than calling for a new type of building.

The simplest answer is to clarify that the defined building types or frontage types only apply when there is an application to construct a new building on the lot or parcel, and that additions and modifications to an existing building are exempt.

In fact, our tendency to define possible land uses more narrowly and specifically is a significant cause of both zoning complexity and unnecessary exclusion of people and businesses. When the current use of an existing building becomes functionally obsolete (that service is no longer delivered in that kind of building) or economically obsolete (no one is buying the product we make here), it either finds a new use, stays vacant, or gets replaced. Since vacant buildings can cause lots of problems, and since it is often not economically feasible to replace the building, zoning should allow for reasonable alternative uses. Overly detailed use distinctions can prevent that from happening.

They can also lead to social exclusion from opportunities for lower-income households to thrive and gain employment. When we distinguish between banks and check cashing establishments, or between spas and nail salons, or

Removing narrowly tailored use restrictions can broaden reuse and redevelopment opportunities for residents and businesses (Credit: Holly White, Clarion Associates).

between offices and medical offices, or between medical offices and outpatient drug treatment centers, our allowable use controls have social consequences. We can find ourselves excluding uses because of the stereotypes of those who will own or operate or patronize them rather than because of their land use impacts.

For all these reasons, it is wiser to avoid narrow use definitions and opt instead for flexible use categories. This not only acknowledges that many separately defined uses have essentially the same land use impacts, but it also acknowledges that the market can think up new uses with similar impacts faster than most communities can amend their codes to define each of them. But it also allows buildings originally built for one use to be reused for a new use without having to go through a rezoning or a change-of-use review and approval.

In the process of rewriting zoning codes, I like to ask the "why not" question. Whether the permitted, limited, conditional, and prohibited uses are shown in lists or in a permitted use table, it is always instructive to review each use that is NOT allowed in each zone district and ask "why not." Often there is no good answer to that question, or the good answer that originally motivated the distinction has been lost in the mists of time. When uses with similar land use impacts are allowed in some districts and not in others, the culprit is often the incremental way in which we amend zoning ordinances. A specific request comes forward to allow or limit or prohibit a specific use in a specific district or area, and in the absence of any objection, it is easier to just make that change. The wiser course is to ask whether the new use should just be included in a broader definition of similar uses or whether it should be allowed or limited or prohibited in other zone districts for internal consistency or consistency with the comprehensive plan.

In recent years an even broader approach has been to review the permitted use list or table and ask whether the use should be allowed as a reuse of existing structure even if it is not one of the more desired uses identified in the comprehensive plan. In other words, the list of uses that the community would like to see (to either maintain or change the character of an area) may be different based on whether new development or reuse of existing buildings is involved. New development can help establish a new image for a neighborhood, and there may be specific uses that can be allowed or incentivized to make that change happen. But that list of uses may be too narrow for the existing buildings in the area, most of whose owners need the flexibility to continue to invest in, expand, and find new tenants for their buildings as leases expire and businesses come and go.

As an example, Youngstown, Ohio, authorizes some uses as "permitted reuses" or "conditional reuses" of existing buildings or structures, while prohibiting those uses in new development (§1103.01). Similarly, Indianapolis has defined "permitted where vacant" (i.e., "V") uses that become available in a given zone district if an existing building has been vacant for a defined number of years (§743-203). These systems acknowledge the reality that, when buildings remain vacant, our ideas of what would be an acceptable use of the building may change. When a property owner tries and fails to find a tenant for a vacant building for three or five or seven years, it is not likely that the building is suited for the list of allowed uses in that zone district. Instead, the community may be willing to allow second-best uses of the building as preferable to a vacant building.

Listing "V" uses in the zoning code can make some second-best uses available in existing vacant buildings without a rezoning of the property. In some cases, these codes make the "V" uses available by right (often subject to size or scale conditions), while in other cases

they become available as conditional uses subject to a hearing. Generally, "V" use systems require the property owner to document that the building has been marketed and available for permitted uses for the required number of years, but has remained unoccupied, using utility bills and real estate listings.

A simpler but less predictable approach to increasing the flexibility for building reuse is to allow the zoning administrator to approve replacement of a prior nonconforming use with another nonconforming use that the administrator determines has fewer negative impacts on the surrounding area. Rochester, Minnesota's Unified Development Code allows this kind of flexibility (§60.500.080.E.3).

The poster child for a second-best use approach is allowing vacant religious institutional buildings and schools to be used for low-impact community serving uses. Even without using the "V" use designation, many newer codes allow these types of vacant buildings to be occupied by low-impact uses like dance or music instruction, yoga studios, art galleries, pet care, and child or elder care. Few of these uses can support the high rents charged by new development, but making them available in existing buildings can help those buildings remain occupied and can provide new employment opportunities in these community-serving uses in locations closer to their potential customers.

An additional way to make use controls more flexible is to broaden the list of permitted uses but limit the scale of those uses. The acceptability of adding almost any nonresidential use as a permitted use in or near a residential neighborhood can be improved by limiting the size of the facility permitted. A music/dance/art instruction facility with a maximum size of 1,000 or 2,000 square feet is less threatening to neighbors than the specter of a larger facility, but it still opens new reuse, service, and employment opportunities that can benefit both the users and the neighborhood.

Vacant churches and schools are highly visible, and it is not surprising that the first wave of second-best use regulations was limited to these types of facilities. But rising vacancy rates for formerly well-occupied buildings are common for many other types of buildings, particularly in the post-COVID era. Many cities are plagued by half- or mostly vacant strip retail centers that have been outflanked by nicer retail elsewhere. And a rising number of cities have historically high office vacancy rates as post-COVID workers are allowed to work mostly from home. These are the new poster children for why use controls should be regularly revisited to ask the "why not" question for all uses in all districts, but also to identify where the list of preferred uses for new development may differ from the list of second-best uses for reuse and redevelopment.

The former Riverside Methodist Episcopal Church in Buffalo, New York, has had multiple commercial uses since 1924, most recently as a self-storage facility (Credit: Andre Carrotflower/ Wikimedia).

As you conduct this exercise, however, please avoid the trap of just making second-best uses conditional uses. Too often, local governments dodge the hard question of whether this use has any significant impacts on the community by saying "well, it is different from what we have done in the past, so we'll just have a hearing on each one to evaluate it individually." Second-best uses are—almost by definition—not highly lucrative uses, and requiring approval after a public hearing adds time and expense that smaller and less-well-financed businesses can ill afford. Unnecessary public hearings change what could be an objective decision about land use impacts into an opportunity for neighbors to object to change just because it is change—or for other less honorable reasons related to who they anticipate will be owning or operating or patronizing the use rather than its land use impacts. Objective standards

addressing maximum size, hours of operation, signage, and lighting can often address legitimate concerns about impact without adding the time, expense, and uncertainty of a public hearing process.

Development Standards

Regardless of whether zoning codes prioritize form or use controls, they invariably include development standards that address topics like parking, landscaping/buffering, lighting, access/circulation, and design of the building or the site on which it is located. Even if the proposed building modifications are allowed and the proposed reuse is allowed, overly rigid site and building development standards can kill an otherwise worthy redevelopment project. In many cases, code drafters formulated these "how good does it have to be" standards with a new building and complete site development in mind, without considering the effects on proposals for building modifications and changes of building use that are much more likely to happen.

As in the case of form and use controls, in its simplest version this a question of "triggers." In my experience, the triggers at which site development and design standards should apply to a reuse/redevelopment project are almost always ignored, but they deserve careful attention. Let's start with minimum parking standards, since these often have the most significant impact on the viability of an existing building and site for a new and different use.

Exempting reuse and redevelopment projects from rigid development standards can broaden opportunities for residents and businesses (Credit: Holly White, Clarion Associates).

Those communities that have repealed minimum parking requirements—like my home city of Denver (§10.4.2)—can skip the next few paragraphs, because they have solved this problem the easy way.

Many cities focus far too much time and attention on whether a proposed reuse of property will have adequate onsite parking to serve the proposed new use. I say far too much time for two key reasons. First, because the market can handle much of this issue. If a proposed new restaurant considering a strip center location anticipates needing more parking than the previous use, and the landlord cannot satisfy that concern, the new tenant will probably not sign the lease. The same is true of a yoga studio considering occupying a space in an old synagogue. Yes, the proposed tenant may be naïve, or the landlord may promise more than they can deliver, but those are the exceptions.

The second reason is because humans can and do change their behavior. If the new restaurant or yoga studio turns out to have too little parking, patrons who live closer will decide to walk or bicycle or take the bus, or the operator will decide to target its marketing to nearby neighborhoods that are more likely to walk. This is how life works, and it is not local governments' job to create barriers to reuse and redevelopment to avoid the need for anyone to change their behavior.

One possible answer is to exempt reuse and redevelopment projects from parking minimums, knowing that the market or local behavior change will manage the change acceptably. Or the code can simply exempt lots or buildings below a defined size from parking requirements. A growing number of codes do that; they just exempt lots under a stated size (e.g., 5,000 sq. ft.) or buildings under a stated size (e.g., 5,000 sq. ft. of gross floor area) from parking minimums. After all, for such a small property, the difference between the available parking and that required by applying the general parking standards may be only one or two spaces, and the viability of a proposed small reuse should not turn on such small differences (which the surrounding area can easily absorb). Our parking regulations are not that accurate—or intended to be that accurate—in predicting real demand and impacts. The question is

not whether there may be overflow parking from a reuse into the surrounding community but whether adopting a minimum parking requirement to avoid the possibility of that impact is more important than promoting reuse of the vacant or underused properties that will create those impacts.

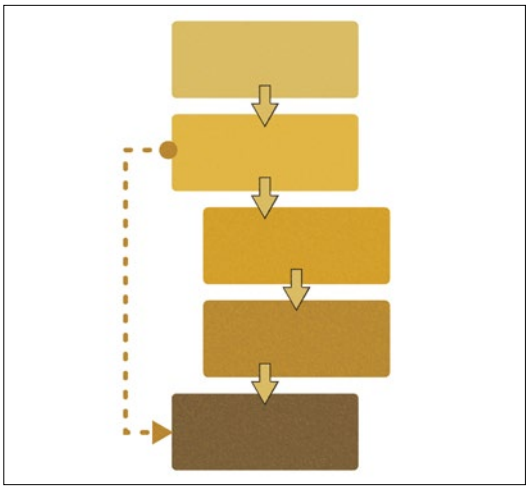
The second most important development standard barrier to reuse and redevelopment is landscaping and buffering regulations. Many current landscaping requirements do not include clear applicability triggers for reuse and redevelopment projects. In practice, that means that projects that do not include any significant site changes (just reuse of the building) are sometimes required to install additional landscaping or irrigation even if the site has few locations where living materials can grow and thrive. I have reviewed codes that take a variety of approaches to this challenge. Some take a "half-and-half" approach; sites receiving investment equal to not more than half the assessed value of the property must comply with some of the standards, while those receiving more investment must comply with all of them. Some take a "proportionate compliance" approach that requires staff to identify how much site redesign is occurring and require the same amount of landscape compliance.

Because each reuse site is different, these approaches often require time-consuming negotiations to find what is doable under the circumstances. At worst, the cost of partial or full compliance with landscaping regulations drafted with full site redevelopment in mind can stop projects in their tracks. Although increasing tree canopy coverage, absorbing more greenhouse gases, and preventing heat islands (particularly in poorer neighborhoods) are all important goals, the should be carefully balanced with the environmental value of reusing existing sites and buildings, and that requires a careful approach to landscape triggers. Some communities have decided to exempt redevelopment projects that do not involve significant site revisions, while others have identified high priority landscaping (usually installation of street trees) and waived or adjusted internal landscaping requirements. Because time and expense are particularly important to smaller projects, it is wiser to have a few clear, objective rules as to what living materials must (or need not) be installed rather than require negotiation or subjective site-by-site evaluations of feasible landscape areas.

While other development standards—like those addressing permitted signage and lighting—can be important to specific

A retail center in downtown Bellevue, Washington (Credit: july7th/ iStock Unreleased)

reuse and redevelopment projects, compliance is generally less expensive and less likely to be a deal killer. But again, a clear, objective standard for what level of investment or expansion will require partial or complete compliance with these standards is almost always preferrable. That is particularly important for smaller, more disadvantaged, or less well-financed applicants that cannot afford the time to negotiate or the cost of surprises in the reinvestment process.



Removing unnecessary procedural steps for reuse and redevelopment can broaden opportunities for residents and businesses (Credit: Holly White, Clarion Associates).

Better Zoning Procedures

In *An Even Better Way to Zone* I emphasize that the time, expense, and uncertainty (which I call the "negative trifecta") of zoning procedures can be as important to redevelopment success or failure as the substantive zoning rules and standards. Procedures are the "unsexy" corner of zoning where even the wisest and best-tailored zoning standards can founder if they make it too hard for applicants to get through the rezoning or development approval process. Because rezoning is often subject to specific state laws, there may be limited ability for local governments to reduce the number of steps in that process, but in many states local governments can still adopt their own criteria for approval of a rezoning. And as always, clear, objective—and therefore more predictable—criteria are better. Please avoid criteria that use words like "harmonious," "compatible," "consistent," "attractive," "quality," and "character." Those words just mean "we are very likely to argue about whether this is a good project or not—which will add time and uncertainty to the outcome." They also mean "those who understand local government better, and speak better English, and have more time to come to the public hearing, are more likely to get their way." Neither reflects particularly good governance, especially if the community is looking for more affordability, sustainability, and equity in its zoning system.

Once any necessary rezoning has been completed, it is even more important that approvals for a project that complies with that zoning be cost- and time-efficient and predictable. Everything stated above about the merits of objective decision-making criteria applies here as well. And everything stated earlier about the merits of avoiding discretionary conditional use approvals applies here too. But we need to go further.

If zoning is in place and the proposed use is allowed, and objective development standards are in place, then there should be no further public hearings on the layout and design of the building or the site. Possible neighborhood impacts have been addressed by development standards, and site and building design should be approved (or denied) administratively based on compliance with regulations that everyone can read and understand the same way. At this point, public hearings tend to amplify the voices of nearby residents over the importance of achieving community-wide comprehensive or neighborhood planning goals. They add unnecessary time and expense and, at worst, empower those whose real objection is to change in general, even if the project complies with both the community plan and the zoning regulations. At the risk of sounding like a broken record, they also tend to favor the voices of those who have the time, skills, and knowledge to participate in hearings over those who do not, and that has equity impacts.

One final way to align development approval procedures with the desire to encourage reuse and reinvestment is to allow administrative adjustments during the development review process. The applicability of this tool to building form controls was discussed above, but it has broader uses as well. Administrative adjustments (1) identify specific development standards that can be adjusted by

A building's initial use is often just the first chapter of its story (Credit: Holly White, Clarion Associates).

staff and (2) the amount by which they can be adjusted to (3) address specific site, terrain, soil, utility, or development constraints. This is particularly important for reuse/redevelopment projects because they are often on smaller lots with less flexibility to redesign the site or move the building location. For example, Albuquerque's Integrated Development Ordinance not only allows specific administrative adjustments but also allows larger percentage adjustments on smaller lots where flexibility is more limited (§6-4(X)(2)). In addition, previously developed properties are more likely to have old subsurface improvements (parwticularly utility lines) that are not apparent on the surface and not recorded in public records. These "gotcha" issues can kill a project, but the administrative ability to adjust site design requirements while preserving their intent can avoid that result.

Conclusion

In my first book, *A Better Way to Zone*, I made the point that zoning needs to make it easy to do what the community wants to happen and harder to do things that it does not want to happen, and I repeat that guidance here. If we really want buildings reused and vacant or underused land redeveloped, then we need to make that easier than finding and developing raw land for the same activity. That turns out to be much harder than it sounds because of the many potential constraints on redevelopment sites. Avoiding and working around those constraints and responding to new market opportunities often means that the resulting development will not match either the neighbors' or the planners' preconceptions about how the site and building will be reused. To respond to those realities, zoning needs to allow for more breathing room for redevelopment than it does for new raw land development. Implementing the changes suggested above can ensure that our stated preferences for reuse and redevelopment are not just lip service.

About the Author

Donald L. Elliott, FAICP, is a Senior Consultant with Clarion Associates, LLC, based in the Denver office, and has been a member of the firm since 1995. He has helped over 80 U.S. communities update their zoning and development regulations, with a particular focus on fair and affordable housing strategies. Elliott is the author of *An Even Better Way to Zone* (Island Press 2025), *A Better Way to Zone* (Island Press 2008), co-author of *The Rules that Shape Urban Form* (PAS Report 570) and *The Citizen's Guide to Planning* (APA 2009) and served as the editor of *Colorado Land Planning and Development Law* for 30 years.

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