

Exhibit L - Staff Recommendation to County Commission, June 7, 2011

Storey County
110 Toll Road ~ Gold Hill Divide
P O Box 526 ~ Virginia City, NV 89440



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**Storey County Community Development, Planning Division
Staff Recommendation Summary**

Meeting Date: June 7, 2011

Agenda Item: DISCUSSION / POSSIBLE ACTION: Approve, Amend, Ignore, Reject, or Remand the action recommended by the planning commission in regards to the Application for Special Use Permit (SUP Application No. 2011-010) of Thomas Taormina. Item continued from the May 3 meeting of the Board of County Commissioners.

Summary Notes:

At its May 3, 2011, hearing, the Board of Storey County Commissioners heard comment from county staff, the applicant and his counsel, and members of the public regarding SUP Application No. 2011-010 to maintain existing and install additional amateur "ham" radio antenna towers at property owned by Thomas and Midge Taormina. The Commission found that a timeline of actions leading to the application, planning commission hearing, and said Commission hearing was needed in order to arrive at a final decision. Staff was directed to develop the timeline and bring the SUP application back at later meeting.

Enclosed is the requested timeline and supporting documents outlining actions and events that have taken place approximately between 1997 and the present. Also enclosed are Findings of Fact and recommended conditions that accompanied the planning commission's advisory motion for approval.

Staff Recommendation:

As indicated in Staff Report No. 2011-010 to the Board of County Commissioners, May 3, 2011, staff brings forth five motions from which to choose. The first set, A and B, are in accordance with the advisory recommendation by the planning commission at its March 3, 2011, hearing, with minor staff amendments (explanation provided therein), and with stated findings under *Taormina v. Storey County* as well as federal, Nevada State, and Storey County regulations and rulings applicable to the installation and maintenance of amateur ham radio antenna towers exceeding 45 feet in height. The subsequent three motions, C, D, and E, offer alternatives in accordance with federal rulings that authorize the Governing Board to "attempt to negotiate a compromise with the applicant" in order to "reasonably accommodate" amateur radio antenna towers. The presented motions are as follows:

PROPOSED: MOTION A: Based on findings and compliance with all conditions and stipulations stated forth in this report, staff moves to recommend that the Board of Storey County Commissioners approve SUP Application No. 2011-010, as recommended by the planning commission, to **maintain the four (4) existing amateur ham radio antenna towers** in accordance with the limitations set forth hereby and **deny installation of any additional towers**. In addition to the planning commission's advisory recommendation, this motion would **allow the permit holder to move the permitted towers around the associated property**, so long as each device remains in compliance with the limitations of this special use permit, the applicable Storey County Building Code, and setbacks. Staff also moves to recommend that Condition #12 approved by the planning commission is amended to allow the use of a generator outside of a sound insulated building in accordance with the applicable zoning regulation during times of emergency power outages. "Existing" contained herein means that each permitted tower will remain at or lower than its current height and at or less than its current body mass (no monopole structures permitted).

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PROPOSED: MOTION B: Based on findings and compliance with all conditions and stipulations stated forth in this report, staff moves to recommend that the Board of Storey County Commissioners approve SUP Application No. 2011-010, as recommended by the planning commission, to **maintain four (4) existing amateur ham radio antenna towers and deny installation of any additional towers.** Staff also moves to recommend that Condition #12 approved by the planning commission is amended to allow the use of a generator outside of a sound insulated building in accordance with the applicable zoning regulation during times of emergency power outages. "Existing" contained herein means that each permitted tower will remain at or lower than its current height and at or less than its current body mass (no monopole structures permitted).

ALTERNATIVE: MOTION C: A possible alternative motion based on findings and compliance with all conditions and stipulations stated forth in this report is to approve SUP Application No. 2011-010 to **maintain three (3) of the four (4) existing amateur ham radio antenna towers and to remove one (1) of those existing towers** to be determined by the permit holder. "Existing" contained herein means that each permitted tower will remain at or lower than its current height and at or less than its current body mass (no monopole structures permitted).

ALTERNATIVE: MOTION D: A possible alternative motion is to approve Planning Case No. 2011-010 to **maintain all existing amateur ham radio antenna towers and install two additional monopole towers** in accordance with SUP Application No. 2011-010. "Existing" contained herein means that each permitted tower will remain at or lower than its current height and at or less than its current body mass (no monopole structures permitted).

ALTERNATIVE: MOTION E: A possible alternative motion is to approve SUP Application No. 2011-010 to **maintain all existing amateur ham radio towers which have received approved Storey County Building Permits (one 32' and one 40' tower) and deny those which have not been erected with an approved Building Permit.** This motion would constitute a denial of SUP Application No. 2011-010. "Existing" contained herein means that each permitted tower will remain at or lower than its current height and at or less than its current body mass (no monopole structures permitted).

Prepared by Austin Osborne, Senior Planner

Enclosures:

1. *Findings of Fact for SUP Application No. 2011-010*
2. *Recommended Conditions of Approval for SUP Application No. 2011-010*
3. *Timeline of Actions Prepared by Storey County Planning Division*
4. *Exhibits accompanying Enclosure 3 Above*
5. *Timeline of Actions Submitted by Applicant*

Exhibit M - Artist's Rendering to Scale of Taormina's Proposed Compromise



Current Configuration

Photo Taken 3/10/11 from 700 Saddleback Rd – Sony DSC-H1 Camera, 5.1MP, No Zoom



Proposed Compromise:

- Monopole #6 Reduced from 195' to 175'
- Tower #2 Lowered from 85' to 45' conforming height
- Monopole #5 Raised from 120' to 140'
- Total of 5 structures higher than 45' (Three existing towers, two monopoles previously permitted)

Exhibit N – Excerpt from County Commission Minutes, June 7, 2011

Vote: Motion carried by unanimous vote (**summary:** Yes = 2).
The Chair called for a recess at 2:49 P.M.

Reconvened by call of The Chair at 3:04 P.M.

DISCUSSION/POSSIBLE ACTION: Approve, Amend, Ignore, Reject, or Remand the action recommended by the Planning Commission in regards to the Application for Special Use Permit (SUP Application No. 2011-010) of Thomas Taormina. Item continued from the May 3 meeting of the Board of County Commissioners

Chairman Kershaw stated that this is a continuance of a previously heard item and asked that only new public comment is made. Senior Planner Austin Osborne stated that at the County Commission meeting of May 3rd, 2011, a timeline of actions was requested for further review. A staff timeline from 1997 to present was presented along with supporting documents such as building permits, building permit applications, emails and letters of correspondence. Mr. Osborne explained the submitted Enclosures with specific notes to Enclosure #5 as a timeline submitted by Tom Taormina's legal Council, Fred Hopengarten. County Manager Whitten submitted a suggested Alternative Motion F and asked for further clarification of "a relative". Mr. Hopengarten stated that he had no disputes to any of the dates in the timeline and asked to pass Motion F.

Chairman Kershaw asked for any additional Public Comment. Buddy Morton, a Virginia City Highlands resident, presented his own timeline. He wished for the laws to be enforced and all violations be fined. Mr. Morton continued to explain his presentation listing dates, events and violations involving the towers as well as a nuisance complaint that he had filed himself. He asked why a fence and a sidewalk are taxed but the towers are not. Mr. Morton asked for a written document stating that the Commissioners will address all the violations from the past 14 years. He then publically submitted another nuisance complaint. A round of applause followed from the audience.

Jed Margolin, a Virginia City Highlands resident, questioned the new negotiation to permit a relative, not just Tom or Midge Taormina, to keep the towers. He expressed concern that if the County doesn't give Mr. Taormina what he wants, he will sue the County again which will cost the County money. Mr. Margolin compared this situation to the Cordevista project where the County has the right to control its own destiny.

Kathleen Stormoen, a Virginia City Highlands resident, added information on the taxing of personal property and spoke of the permit process. She spoke of safety issues and encroaching on neighboring property.

Vice-Chairman Hess expressed his discomfort with how the towers were erected and the total disregard for neighbors. He would rather not have any towers obstructing the view of the entrance to the Highlands but may entertain a few 45 foot towers. Commissioner Sjovangen said it appears that everyone involved made errors.

Motion: Maintain all existing amateur HAM radio towers which have received approved Storey County building permits and deny those which have not been erected with an approved building permit, in no case will any tower exceed 45 feet in height, and to deny SUP 2011-010 and the owner of property should be in compliance with this within 90 days and if the house sells, forecloses or the passing, only towers with permits may stay, **Action:** Approve, **Moved by** Commissioner Sjovangen, **Seconded by** Vice-Chairman Hess and Chairman Kershaw.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

District Attorney asked to be authorized to negotiate with Mr. Hopengarten that as long as a Federal Case is started within 60 days, the County Codes won't be enforced.

LICENSING BOARD:

SECOND READINGS:

1. DAVIS COMPANY, INC. - Contractor / 2485 Sutro Street, Reno
2. HARDESTY'S GENERAL REPAIR - Contractor / 120 N. Main Street, Yerington
3. COMSTOCK NITES - Nonprofit / 76 North C Street, VC
4. AM POWER SYSTEMS - Home Business / 340 Prospector Road, MT
5. ENVIRONMENTAL PROTECTION SERVICES - Contractor / 3579 Hwy 50 E, Carson City
6. KEITH SHAMBLIN CONSTRUCTION, INC. - Contractor / 128 Hillcrest Circle, Dayton
7. E CONKLIN RESTORATION - Contractor / 46 Hardy Drive, Sparks
8. SIERRA PAINTING, INC. - Contractor / 265 Golden Lane, Reno
9. JACKSON QUALITY DRYWALL - Contractor / 2528 Business Parkway, Suite B, Minden
10. SCHLUTER SYSTEMS, L.P. - General / 100 Germany Circle, TRI

Mr. Haymore asked to continue Schluter Systems as they are still building.

Motion: Continue Second Readings of Licensing Board Item #10, Schluter Systems, **Action:** Approve, **Moved by** Commissioner Sjovangen, **Seconded by** Vice-Chairman Hess.