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Assembly Government Affairs
Committee
SB 358

Briefing Material Prepared
By
Rhodes Homes

May 9, 2003

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ASSEMBLY GOVERNMENT AFFAIRS K1-5
DATE: 5/10/03 ROOM: 4401 EXHIBIT K
SUBMITTED BY: Steve Morris

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Introduction & Opposition to SB 358

The attached materials have been prepared by Rhodes Homes to provide the Nevada State Assembly Government Affairs Committee a factual background on various matters impacting the gypsum mine site on Blue Diamond Hill. Mr. James Rhodes contracted to purchase the gypsum mine site in September of 2002 and closed on the land in March of 2003.

After 80 years of mining, the gypsum mine site is in desperate need of significant remediation. One solution for remediation would be to permit an economically viable mixed use community, offering a place to live, work and play in a very beautiful area. Such a community would be designed to harmonize with its unique surroundings and, contrary to popular opinion, could provide an enhancement to the environmental and economic well being of the immediate Red Rock area and Clark County as a whole.

Recent initiatives by the State (Senate Bill 358) and Clark County (Ordinance to Expand the Red Rock Overlay District and Associated Development Standards) have been specifically designed to preclude this remediation solution. Both documents are targeted to control a single piece of land, namely Blue Diamond Hill. Both the Senate Bill and the County's Ordinance have the same effect of essentially denying any opportunity for a viable community on Blue Diamond Hill.

We are opposed to Senate Bill 358 for the following reasons:

- (1) The Bill specifically targets a single piece of private land. The Adjacent Lands, as defined in the Bill, encompass just over 41,000 acres (see Exhibit 3A). Of this land, approximately 33,000 acres are already within the Red Rock Canyon National Conservation Area. The remaining 8,000 or so, acres that are outside of the Conservation Area are comprised of BLM lands and the lands that are known as the James Hardie Gypsum Mine and Gypsum Board Processing Plant. There are no other private owners within this expanded area.
- (2) The Bill is inconsistent with the intent of other public law. 16 U.S.C. Section 460ccc(9), relative to the Red Rock Canyon National Conservation Area expressly states:

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area or the extent consistent with applicable law (emphasis added).

In fact, since the enactment of the RRCNCA in 1990, Congress, on at least three separate occasions, had the opportunity to revise, amend, or even delete Section 460ccc(9) but declined to do so. H.R. 3050 enacted on September 27, 1993, H.R. 4141 enacted October 1, 2002, and H.R. 5200 enacted on October 15, 2002 clearly indicate Congress' intent to defer to Clark County regulatory control of lands outside the boundaries of the conservation area. (See excerpted copies of each bill attached hereto as Exhibit 13). Moreover, on those three occasions, Congress expressly rejected the notion of including the Mine Site as a buffer to the approximate 175,000 acres that constitutes the conservation area. The history of the conservation boundary is also graphically depicted on Exhibit 3B.

Section 460ccc(9) is the reason that the BLM has expressed such disinterest in acquiring the land, either through an outright purchase of the property or by way of a land exchange. Congress recognized long ago that the Mine Site is not necessary to the use and enjoyment of the conservation area.

As you will see later in this book, development in Summerlin already exists right up to the boundary of the conservation area. The presence of Summerlin is further support of Congress' intent that Section 460ccc(9) preserved to adjacent landowners the right to seek land uses that are consistent with applicable law, as regulated and enforced by the local governing agency - Clark County. Thus, if enacted, the proposed Bill, SB 358, will definitely create a buffer zone in direct conflict with Section 460ccc(9). The notions of fundamental fairness dictate that this landowner, the only private landowner subject to the proposed SB 358, be afforded the same right to apply for land use applications and zone changes as was extended to Summerlin (See attached Exhibit 14).

- (3) The Bill denies affected land owners the due process that is normally afforded by the provisions of NRS 278, which empowers and authorizes the governing bodies of our cities and counties to regulate the improvement of the land. Since the first zone change application was processed in 1956, Clark County has retained control of land use planning in Southern Nevada. Furthermore, Clark County has permitted construction activity upon lands within the conservation area. In the town of Blue Diamond, land that is within the conservation area, there is construction activity currently taking place with the permission and approval of Clark County (See Attached Exhibit 15).

The ultimate remediation of the gypsum mine site presents a myriad of complex problems that will impact the interest of the landowner, the County, the BLM, the nearby residents and the Clark County population at large. To determine the best solution for the ultimate use of the gypsum site will require extensive study and considerable participation by all affected stakeholders.

The current County process for regulating land use has been developed and refined over many years and is a relatively sophisticated mechanism for balancing the divergent interests that typically accompany any change in land use. Our local elected officials and their professional staff are, on a daily basis, working diligently to meet the unique challenges presented by the phenomenal economic and population growth that continues to characterize Las Vegas. We understand that the State legislature meets for 4 months every other year and is not staffed for zoning and planning considerations. The local governments are already staffed with professionals and technical specialists whose entire job description is land use and planning.

If this Bill is passed, as written, we believe that it will preclude any opportunity to find a sound solution for the ultimate remediation of the gypsum mine site.

The materials presented herein are intended to give the reader a factual understanding of the physical, environmental and economic factors that pertain to the Blue Diamond Hill Mine and its future use. The material is organized as follows;

- Introduction And Opposition To SB 358
- History Of The Mine Site And Environs
- A Review Of Issues Raised By Opponents To Development And Commentary On Same
- Description Of The Physical, Environmental And Economic Conditions Affecting The Mine Site And The Broader Context Within Which It Is Situated.