

ASSEMBLY
GOVERNMENT AFFAIRS
March 29, 1977
7:00am

MEMBERS PRESENT: Chairman Murphy
Mr. May
Mr. Craddock
Mr. Jeffrey (later)
Mr. Mann
Mr. Moody
Mr. Robinson
Mrs. Westall
Mr. Jacobsen

Guests present: See attached list

Chairman Murphy called the meeting to order at 7:00am.

SENATE BILL 62

Senator Dodge explained his bill to the committee. It had its origin when the Legislative Commission increased its bill drafting staff. Between sessions a job was needed for the attorneys. Codifying the administrative code was the job that should fill this time period. The bill does declare a moratorium on this codification job when a bill drafter is in the bill drafting season. It sets up a review of administrative regulations and maintains a legislative overview. 24 states have some type of a legislative overview of administrative regulations. Sets of this Nevada Administrative Code would be kept by various people in the LCB and the bill would allow the Legislative Commission to order more to have them sold to the public or other agencies that wanted them. There would be final legislative review by the Legislative Commission to determine if there was neglect while establishing an administrative regulation of legislative intent. The Attorney General has reviewed this matter and feels it constitutional. If the administrator did not feel that he had violated legislative intent, then he could take the matter to court.

Assemblyman Mann commented that under section 8 of the bill, "if you say that the Legislature is itself the sole judge of what its intent was, then why would the administrator have to go to court because the court would have no way of knowing what legislative intent was unless the Legislature said 'this is our intent' and then the court could only overturn these decisions when they interpreted our intent (the Legislature's) differently than we do.

Senator Dodge replied that when this was drafted they were very careful to not make an absolute power over these regulations. There may even be a constitutional question where we don't offer some recourse to the third branch of the government as far as construing the delegated authority.

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Senator Dodge continued by saying the this bill does not contain any mechanism for holding in suspense a regulation which in the minds of the Legislative Commission might be unreasonable and arbitrary. It is only where the Commission feels that there has been a violation of the Legislative intent and that is in Section 8 which says that they can't attempt to enforce the regulation unless they get a declaratory judgement that says that there is no violation. There is a monkey on the agency's back because they have to seek that judgement of the third branch of the government. You have the legislature delegating the authority to an executive agency which seeks to carry out that authority and now the legislature comes back in to try and thwart that and the avenue that is held open to the agency is for them to seek an opinion by the judicial branch of the government. There are checks and balances.

Mr. Mann replied that "that is my exact argument. In relationship to the separation of powers and checks and balances, I would argue that the courts may very well refuse to jump in because of a violation of separation of powers because they would be in the area of trying to decide what was legislative intent when the legislature is sitting up here telling them what legislative intent is."

Senator Dodge replied that he feels reasonable secure constitutionally on this issue.

Assemblyman Robinson commented that the advisory opinion of the legislative counsel should be channeled through the Legislative Commission.

Senator Dodge continued by saying that every regulation adopted by an agency shall include among other things a notice of the right of every affected person to file a protest with the LCB. The LCB Director will be to decide which petitions are reasonable and will screen out those that really don't question legislative intent. But at least the citizens will have somewhere to go with their complaints. Regarding the fiscal note, the costs are not anything that isn't budgeted already.

Bob Warren, League of Cities, spoke in support of the bill because it will help clear up confusion regarding legislative intent.

Phyliss Otten, Technical Writer for the Health Division, stated that she is involved in preparing regulations for adoption by the Board of Health. She spoke in opposition to the legislation because of the practical problems. However, she did agree with the concept of codification. Her objections were that the procedures are cumbersome and she did not like one agency reviewing other agencies, rather than the legislators reviewing the agencies themselves.

Larry McCracken and Jim Gibbs, from Employment Security Department, brought out some areas in the bill which are problems which could be amended out. The problem is the agencies not being able to adopt a temporary regulation because there is a permanent regulation covering

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the same area. The section of the bill is Section 3, paragraph 3 that causes the problem.

Frank Daykin, Legislative Counsel, was called by the committee to comment on Mr. McCracken's concerns. He advised the committee that the bill would have to be amended in subsection 3 so that an agency may temporarily amend a permanent regulation but the temporary amendment would expire on August 1 in the same way provided for the new temporary regulations. Section 4 could begin Except as otherwise provided in subsection 3.

ASSEMBLY BILL 465

Assemblyman Kosinski, sponsor of the bill, explained that his bill provides for performance reviews of agencies. He noted that the bill carried with it a large fiscal note that he had not anticipated. He added that he thought there should be some overview of executive agencies by the legislative branch.

Pat Gothberg, Common Cause, voiced her support for the measure. Her statement is attached as Exhibit 1.

ASSEMBLY BILL 485

Assemblyman Nancy Gomes, sponsor of the bill, was before the committee to answer any questions of the committee. She repeated the need for expediency on the legislation. She passed out a map of the area which is attached as Exhibit 2.

Mr. Pete Walters, the realtor handling the sale, told the committee that the original asking price on the San Rafael Ranch was prior to the negotiations and eventual agreement with the Highway Department for the acquisition of 35.3 acres of the 457 acres. The figure of 6 million was given to the officials of Washoe County for the 422 acres which comes out \$14,218.00 per acre. Adjoining property two years ago was sold for 10 acres for \$25,000 per acre and 28 acres for \$13,000 an acre.

Mr. May asked if there were other ranches of this size and location in the area. Mr. Walters replied that this Ranch has been regarded for a long time as a very unique parcel both as to developability and its actual location. When Mr. May asked if there was a series of ranches lying around the outskirts of Reno of this approximate size and terrain, Mr. Walters replied that he did not believe so. Mrs. Gomes added that this land is also adjacent to some BLM land that could be used also.

Mr. Walters replied to a question from Mr. Moody that the owner has only had one appraisal made that was in 1966 and it came out 4.1 million dollars 11 years ago.

Mr. Walters replied to a question from Mr. Jacobsen that the property had been for sale for 6-7 years and that it would be a tax advantage for

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Mrs. Herman, the owner.

Mr. Mann asked if some of the land have the water rights. Mr. Walters replied that water rights had not been acquired for some of the land.

Mr. Pat Cashill, a Reno attorney, came before the committee to ask them to amend the bill to include another piece of property named Scott Island. He added that it had been appraised in December of 1974 for 1 million dollars, which was \$62,000 an acre.

The committee viewed maps of the location in Reno.

Mr. Don Crosby, Deputy State Highway Engineer, and William Engel, showed the committee maps of the San Rafael Ranch and the highway property through it. The proposed legislation specifically excludes the right of way of McCarran Blvd. through the San Rafael Ranch. The Highway has entered into a sales agreement with the owner of the Ranch for 35 acres and the right of way. The Highway is involved in the utilization of federal funds and that being the case and finding that the park precludes the Ring Route the funds will be cancelled. The bill has to be amended to allow for the ring road. See Exhibit 3.

Upon a question from Mr. Moody, Mr. Crosby replied approximately \$450,000 was the price for the 35 acres with some of the cost covering damages, so it is not a computable price per acre.

The committee viewed another map of the ring road plans. Discussion of the map and plans continued.

ASSEMBLY CONCURRENT RESOLUTION 25

Assemblyman Bob Weise explained to the committee that this resolution was middle ground for the request of the Incline residents for a separate county. After the residents started looking into the matter they decided that they did not want to rush into anything. The area already has the tax base to support their own county. The area is 60 miles square that is mostly developed, they don't need new roads and they already have a fire department. The current local government is based in their Incline General Improvement District. The people feel that they could do a better job as far as county education is concerned. They currently have no representation on the Washoe School Board.

Mr. Weise added that since Incline is not a county, they can have no representation on the TRPA. Compared to other counties Incline Crystal Bay is in the middle as far as a countywide population figure would be and is in the top third of the counties as far as assessed valuation. Economically this separation is feasible. The purpose of the bill is to allow a study of the grey areas of a separate county.

ASSEMBLY BILL 488

Assemblyman May spoke in support of his bill by saying that NRS chapter 235 adopts for the state of Nevada a state seal, a flag, a song, a tree, a flower, a bird, and an animal. "When you start adding to that laundry list, you get in an area of where you are either in one of pride, heritage, history or stupidity." He left the area choice on this bill to the committee. He added that several states have state minerals, state gems, state rocks, and even 14 or 15 have state stones. Each state must decide for itself the things it wants to stand out and silver has indeed been interwoven into the history of Nevada and the statehood of Nevada. "Certainly Nevada owes a debt of gratitude to the mineral commonly known as silver." With that thought in mind, he asked consideration by the committee of the bill before them.

COMMITTEE ACTION

ASSEMBLY BILL 488- Mr. Moody moved for a DO PASS, seconded by Mr. Mann, motion carried with Mr. Robinson voting no.

ASSEMBLY CONCURRENT RESOLUTION 25- Mr. May moved to DO PASS AND REREFER TO LEGISLATIVE FUNCTIONS, seconded by Mr. Robinson, motion carried with Mr. Jacobsen voting no and Mr. Jeffrey voting no.

ASSEMBLY BILL 465 - Mr. Mann moved to INDEFINITELY POSTPONE, Mr. Jacobsen seconded the motion, motion passed with Mr. Murphy, Mr. Craddock, Mr. Jeffrey, and Mr. Robinson voting no.

SENATE BILL 269 - Mr. Moody moved for a DO PASS, seconded by Mr. Mann, passed unanimously. Mr. Jacobsen was absent for the vote.

There being no further business to come before the committee, the meeting was adjourned at 9:30.

Respectfully submitted,

Kim Morgan

Kim Morgan, Committee Secretary

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: 3/29

NAME, ADDRESS & PHONE NO.	REPRESENTING	TESTIFYING ON BILL NO.
<i>W. S. Walter</i>	<i>self.</i>	
<i>Don Croob W. Engel</i>	<i>Highway Dept</i>	
<i>Phyllis Otten</i>	<i>Health Div.</i>	<i>SB 62</i>
<i>Larry M. Jackson</i>	<i>ESD</i>	<i>SB 62</i>
<i>Jim Gibbs</i>	<i>ESD</i>	<i>SB 62</i>
<i>Les Starberg</i>	<i>Common Cause</i>	<i>465</i>
<i>Jean Ford</i>	<i>self</i>	



NEVADA

March 29, 1977

Testimony before the Assembly Government Affairs Committee

Re: AB 465

By: Pat Gothberg, CC/Nevada

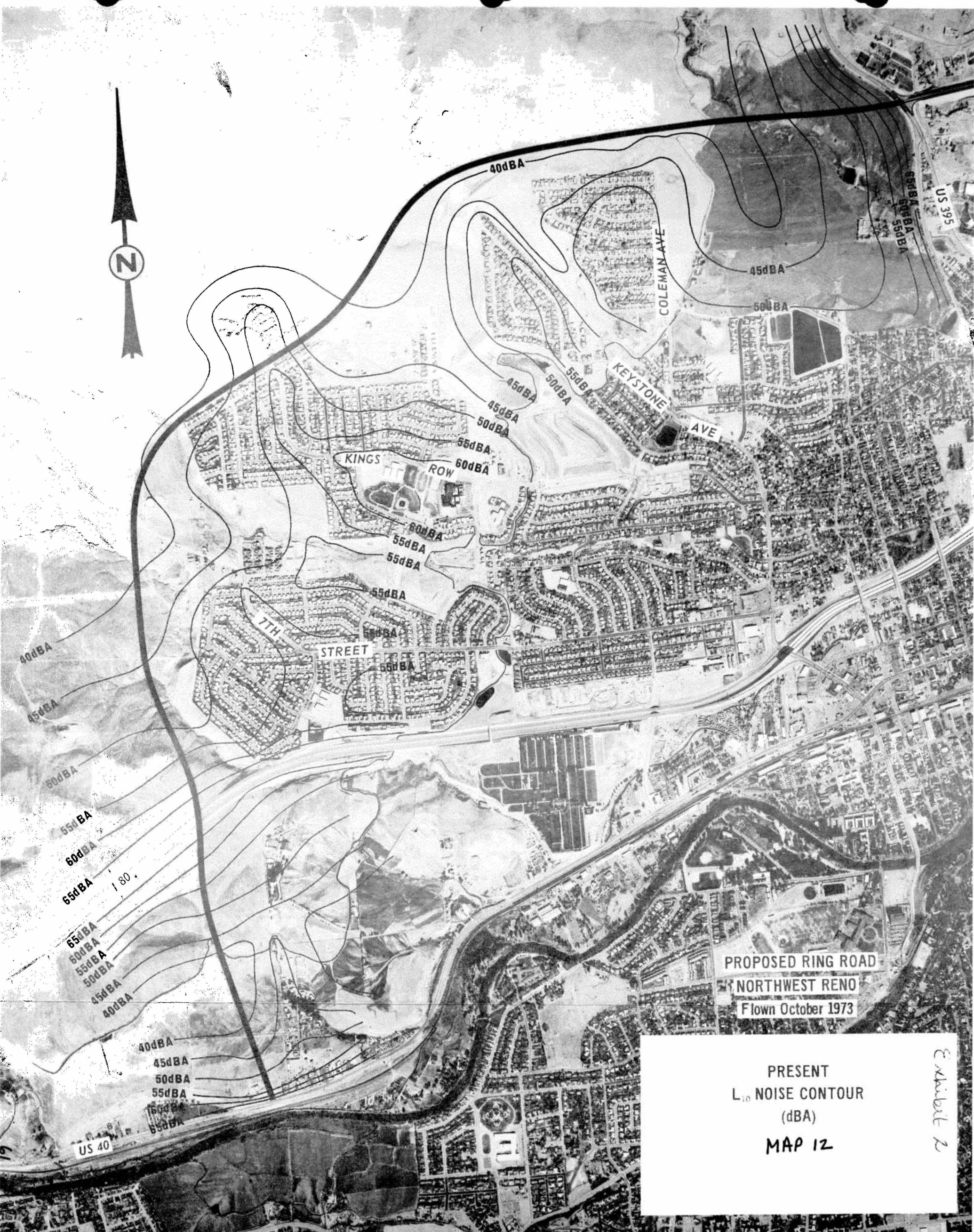
I would like to take advantage of the opportunity to speak for just a few minutes on AB 465 and how it differs from the new concept of Sunset. I've talked with a number of Nevada legislators about Sunset, and it appears that there is a certain amount of confusion surrounding the subject. There are many similarities between a Sunset bill and AB 465.

The main difference between AB 465 and Sunset is that Sunset establishes a mechanism for periodic review of boards and agencies, and that review is assured through the action-forcing mechanism of automatic termination. The problems that Common Cause has had with the one Sunset bill introduced in the Senate center around the fact that the automatic termination clause makes risks which must be minimized through the provisions of the bill; the one bill introduced so far does not do this. AB 465 has no automatic termination clause and is therefore not a Sunset bill. It does, however, attempt to set up a program of review, and this is good.

Experience through the years on the national level as well as in the states has proven that evaluation is seldom carried out even if attempts are made to include those requirements in the law. It is this problem that Sunset addresses. I am making a statement here in support of AB 465. I hope that we will not see the same problem in Nevada of requiring evaluations of boards and agencies and then finding that those evaluations don't occur or do occur but are not done thoroughly.

It would seem possible that you could choose to process this bill and then, in a future session, evaluate how this review process has worked. In the meantime, a study of the Sunset concept could have been conducted. One thing is for sure, if evaluation does not occur according to the law as established in AB 465, you could assure compliance with the law by including an automatic termination clause.

One suggestion that we could make centers around the wording of AB 465 which requires the review of each agency, board, or commission of the executive department every six years. No attempt has been made to list agencies, provide for a schedule for evaluation, etc. I suspect this omission is an intentional effort to leave the particulars up to the department doing the audits. By requiring the review of so many agencies in a six-year period, you could be making a requirement which either would result in non-compliance with the law because of an inability to conduct such a large number of reviews, or else reviews could be done but hastily because of there being so many to do. AB 465 is a well written bill. Even though it is not a true Sunset bill, we encourage your support of this bill as a positive effort to make government work and serve the people more efficiently.



PROPOSED RING ROAD
NORTHWEST RENO
Flown October 1973

PRESENT
L₁₀ NOISE CONTOUR
(dBA)
MAP 12

Exhibit 2

Page 3: sec 4.

(3) Two parcels of State Highway property designated Parcel No. F-821-WA-009.598 and 009.186 comprising a corridor for McCarran Boulevard (Ring Road) varying in width from a maximum of 400 feet to a lesser amount, situate, lying and being in the county of Washoe, state of Nevada, and more particularly described as being a portion of the S 1/2 of the S 1/2 of Section 34, and the SW 1/4 of the SW 1/4 of Section 35, all in T. 20N., R. 19E., M.D.B. & M., consisting totally of 23.47 acres and 11.86 acres.

Section 6 :

Development of the park by the city and county shall be compatible in kind and nature with the McCarran Boulevard highway corridor.