



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Kim Toulouse, Chair
Clay Thomas, Vice Chair
Kristina Hill
Lee Lawrence
Brad Stanley
Carl R. Webb, Jr., AICP, Secretary

Thursday, October 5, 2017
1:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, October 5, 2017, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Toulouse called the meeting to order at 1:32 p.m. The following members and staff were present:

Members Present: Kim Toulouse, Chair
Clay Thomas, Vice-Chair
Kristina Hill
Lee Lawrence
Brad Stanley

Staff Present: Bob Webb, Planning Manager, Planning and Building
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Trevor Lloyd, Planning Manager, Planning and Building
Kelly Mullin, Senior Planner, Planning and Building
Roger Pelham, Senior Planner, Planning and Building
Julee Olander, Planner, Planning and Building
Eva Krause, Planner, Planning and Building
Donna Fagan, Recording Secretary, Planning and Building

2. *Pledge of Allegiance

Chair Toulouse led the pledge to the flag.

3. *Ethics Law Announcement

Nathan Edwards, Deputy District Attorney, recited the Ethics Law standards.

4. *Appeal Procedure

Bob Webb, Planning Manager, announced Trevor Lloyd was the new 2nd Planning Manager. He recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

Chair Toulouse opened public comment. There was no response to the call for public comment.

6. Approval of Agenda

Member Stanley moved to approve the agenda for the October 5, 2017 Board of Adjustment meeting. Member Thomas seconded the motion, which carried unanimously.

7. Approval of August 3, 2017 Draft Minutes

Member Thomas stated there was an error on page 5 of 15 wherein the vote was recorded as unanimous, but Member Lawrence had voted no.

Member Thomas moved to approve the draft minutes as amended for August 3, 2017. Member Stanley seconded the motion, which carried unanimously.

8. Planning Items

- *A. Presentation and possible discussion of the 2017/2018 Truckee Meadows Regional Plan update. Presentation will include an overview of the Truckee Meadows Regional Plan, the Truckee Meadows Regional Planning Agency and the update process.

Kimberly Robinson, Executive Director Truckee Meadows Regional Planning Agency, presented the update with a video and PowerPoint that explained the Agency's duties and responsibilities.

Chair Toulouse invited the Board to talk to the Executive Director after the meeting if they had any questions.

9. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

- A. Appeal Case Number WBLD17-101171 (Richard Stone) – For possible action, hearing, and discussion on an appeal of the Planning and Building Division Director's decision to deny a building permit application for a retractable private communication antenna taller than 45-feet tall. The antenna was proposed to be retractable, and was less than 45 feet tall in its retracted mode, but the antenna could be raised up to 72-feet tall when fully extended.

- Owner/Appellant: Richard Stone
- Location: 4765 Giles Way
- Assessor's Parcel Number: 050-530-30
- Parcel Size: ±1.55 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 912, Establishment of Commissions, Boards and Hearing Examiners
- Commission District: 2 – Commissioner (Lucey)
- Section/Township/Range: Section 31, T17N, R20E, MDM,
- Washoe County, NV
- Staff: Trevor Lloyd, Senior Planner
- Phone: 775.328.3620
- Email: tlloyd@washoecounty.us

Chair Toulouse opened the public hearing. Trevor Lloyd, Senior Planner presented the Staff Report. Chair Toulouse called for any disclosures from the Board. Member Stanley stated he spoke with the Applicant, by accident, a week or so ago at a restaurant, but their discussion had nothing to do with this. DDA Edwards felt that disclosure would not be a reason to disqualify him from hearing this case.

Chair Toulouse called for any questions from the Board. Member Stanley said this had been heard on several occasions, and he congratulated whoever found the past incidents. He asked what the potential downside would be to the Applicant and what the potential upside would be to the neighbors and the constituency. Mr. Lloyd said staff considered an Administrative Permit to be very similar to a Special Use Permit; however, it was essentially a lower level of review. He said there were two options for an Applicant. The first option could be to get the necessary signatures from all neighboring property owners within 500 feet of the proposed use. If consent was given by the neighboring property owners, the use could be allowed administratively without going through the public hearing process. The other option was to take the Administrative Permit directly to this Board and staff would notice a minimum of 30 of the closest neighbors. He said the neighbors could provide testimony and have the opportunity to look at the plans and graphics. He stated it was also an opportunity for reviewing agencies to provide their comments.

Mr. Webb clarified that with either of the two processes, all agencies were invited to participate and recommend potential conditions, but this Board or a hearing examiner would issue or approve the Administrative Permit with conditions.

Member Stanley asked what the price was and if the Permit could be done by an individual without design or architectural support. Mr. Lloyd stated there was a fee with the application. DDA Edwards clarified the Director was willing to waive the fees, or a portion thereof, for this case. Mr. Lloyd stated he understood certain planning portions of the fees could be waived, but not the other fees required from other agencies.

Chair Toulouse called the Applicant forward. Richard Stone went through his PowerPoint presentation. Chair Toulouse opened up questions to the Board. Member Hill asked if he had a picture of the antenna. Mr. Stone stated he did not. Member Hill asked if the reason it was prohibited above 45 feet was for aesthetics. Mr. Webb stated it was strictly a Code provision for safety hazards, because if the antenna was above 45 feet there were concerns about the antenna falling over. He noted on page 3 of 4 of the Staff Report it contained the two sections of pertinent Code. The one section that Mr. Stone referred to was 110.324.20, which talked about the retractable height could not exceed the height limit of the main structure, which in this case was 35 feet, plus an additional 0 feet. 110.324.30 stated any additional height beyond the maximum allowed for the retractable required an Administrative Permit, which then kicked in the review from other agencies or citizens.

Member Lawrence (inaudible) had a question about (inaudible) the Permit and he wondered if he had a chance to review that information. Mr. Stone stated he did not have a copy of the Permit but had gone looking on the webpage. He explained it was described as a Permit for an antenna structure and that it was completed. Member Lawrence (inaudible) said he would like to see where it was actually over 45 feet. Mr. Stone said Ira Stoler had two towers under the Permit; there was a 50-foot tower and a 75-foot tower.

Chair Toulouse said the Board had a photo and a diagram of what these towers looked like and he asked if that was an actual representation. Mr. Stone stated it was for an amateur antenna, but the tower structure was correct. The photo showed the tower in its retracted position and they could see the lattice work and the sections as it went up.

Member Stanley asked if the retractable part was the lattice part. Mr. Stone stated yes and that tower retracted down to 23 feet and the Code only required that it retract to less than 45 feet.

Member Thomas said the second bullet point on the slide indicated that he would raise the tower to its maximum height when needed. Mr. Stone explained there was a propagation study justifying the height and he would raise it up when he needed to reach a certain area with additional signal strength. Most of the time he expected to operate it fully retracted below 45 feet. Member Thomas said if it was approved and Mr. Stone elected to put it at its maximum height, although it was retractable, there was no guarantee he would retract it. Mr. Stone said that was correct, although he had never exceeded the 45-foot height since he put it up. He followed the law and tried to comply with the wishes of his neighbors to the best of his ability. The way things were written there was nothing legally that stated he had to retract it up and down, but as a practical matter, when the antenna was up in the air, the higher it was the more beating it took from the wind and the more maintenance issues he had. It was in his best interest to keep it down when he was not using it.

Member Thomas stated the National Association for Amateur Radio webpage had a summary that referenced the FCC interpretation memo and it said that it allowed the local authorities to still consider zoning for height, safety and aesthetic concerns. Mr. Stone stated they allowed the local jurisdiction to address all of those issues, but it stated "must accommodate not just amateur radio communications but the desired communication of the specific amateur." He said that was why when they had the study done for the propagation, he was asked what areas he wanted to contact. He thought that was what the law was stating; the height issue must accommodate the desired amateur communication.

Member Stanley asked how often during an average year was needed to raise the antenna past the 45 feet height. Mr. Stone stated typically he would operate for a few hours a day or 20 hours over a contest weekend. But on the average, the time it would be fully extended and operating, including night and day, would be a few days a month. He planned to keep it in a half-way position most of the time, because that would accommodate most of the local communications. He said there would be times at the height of the sunspot cycle when he could talk to the world with a "wet noodle" and there were times when it would take a fully functional antenna system.

Member Stanley said there were some remarks regarding when he initially selected the site and home and met with Planning. Mr. Stone stated he did not apply for the Permit immediately. He said he met with Building and Planning and had to go through certain things in the Code. They said he had to have certain setbacks and had to have Engineering approval, which cost him additional money. He pointed out it was retractable and he was told that if it retracted to less than 45 feet, it would be acceptable.

Member Stanley asked what Mr. Stone's concerns were if he had to go through the Administrative Permit process. Mr. Stone stated he had been advised by his attorney that it was illegal and according to federal law he had a right to the antenna. He addressed some of the concerns about neighbors and objections, he talked to the neighbors and got some letters of support from the neighbors and he did not know what additional things the Administrative Permit would do. He said the Health District checked his site to make sure there weren't any problems and found nothing and there was evidence in his Exhibit that this was not a navigational hazard. The closest neighbor to him was a pilot for Southwest Airlines and he said the lowest flight level allowed over Washoe Valley was 8,000 feet above sea level, which was about 3,000 feet above the valley floor.

Member Hill asked what kind of winds the antenna was designed to withstand. Mr. Stone stated the tower had to be designed to withstand 130 mph gusts, which was required by the County. He said most of the antennas would not survive in 100 mph winds. He explained that pieces of the antenna may break or connections could be damaged. If the Board's concern was liability, he had been to his insurance company and any liability from a piece of the antenna landing 500 feet away in his neighbor's yard was covered under his homeowner's policy. Member Hill (inaudible) asked how far he was from Washoe Lake. Mr. Stone estimated the water was approximately 250 to 400 feet away from him.

Member Thomas asked what the maximum height was that the antenna could be extended. Mr. Stone stated it could go as high as 150 feet. Member Thomas said Mr. Stone's property backed up to Washoe Lake. Mr. Stone stated it was a wildlife preserve and not part of the State Park, but it was State land. Member Thomas said to the west side was an open area. Mr. Stone stated it was open on the west side for two miles towards the mountains and to the east he would be looking toward East Lake Boulevard. Mr. Stone stated that was correct.

Member Stanley asked Mr. Lloyd if he had an opportunity to talk about the Administrative Permit process to Mr. Stone. Mr. Lloyd stated he did and what would be involved and went over the information in the application packet. Member Stanley asked if that particular piece of Code was under review. Mr. Lloyd stated there were a number of Code provisions that were under review, but he could not tell the Board when they would revisit this section. Member Stanley asked if there had been any recent building permits that were denied that were similar to this. Mr. Lloyd stated not to his knowledge, but the problem was tracking these was very complex as they had literally thousands of permits that came in each year.

Chair Toulouse opened public comment. There was no response to the call for public comment.

Mr. Webb stated the total cost for an Administrative Permit application was approximately \$2,100, but in this particular case the Planning and Building Director waived \$1,500, leaving \$600 that would be paid to

other reviewing agencies. He said this Board would work on the appeal of the Planning and Building Division's Director's decision to deny a building permit application. He reminded the Board, based on activities that had occurred since that action, the Building Permit application was accepted by the Director. He said the Division Director allowed Mr. Stone to pour the foundation however, the Building Division was not going to do final approval on that Building Permit until there was an action by this Board. He said if this Board decided to uphold the appeal and overturn the Building Division's decision to deny that initial application, that would mean the Building Official would proceed forward and issue the Building Permit. There would be no other action by this Board to say he had permission to raise the tower, this Board would just issue the Permit as submitted. If however this Board overturned the appeal, denied the appeal, upheld the decision of the Building Official to not proceed forward, the Building Official would not move forward until either this Board's decision was appealed and there was a subsequent overturn of that appeal, or until the Applicant went through the Administrative Permit process and was approved, the Building Official would issue the Building Permit.

Chair Toulouse called for discussion. Member Stanley said this was a very complex process and the thing that concerned him was the three previous cases where the interpretations went the other way. He was disappointed to hear that there were not any other cases where this interpretation was applied. He said by the letter of the law under the interpretation, it seemed there was a great deal of ambiguity, which he thought the Applicant was protesting. He said he had concerns with the consistency of the ruling overall.

Member Hill stated she felt it was pretty clear the Applicant needed to get an Administrative Permit.

Member Thomas said his concerns were someone could now get a tower under 45 feet and go to a height of 150 feet. He said the NRS imposed limitations on the ability to regulate amateur radio operators, but it did not state that it excluded them from applying regulations to them. He thought aesthetics and zoning for height and safety were factors to consider.

Member Lawrence stated it was hard for him to get past the issue that there had been permits issued before to other people. In the beginning, Mr. Stone was given the impression that things were going to be okay. He hoped the County would be looking at this in their next review of Code regulations to ensure no precedents were furthered to go past the Administrative Permit process. He said he valued the Administrative Permit process which allowed for comments to be made by neighbor's.

Chair Toulouse stated he had concerns about what had been done in the past, but this Board had to decide on what was happening today. He said the Board would get cases where mistakes or interpretations were made in the past that they had to correct or make a new interpretation based on the current Code. He felt it was clear this had to go through the Administrative Permit process.

Chair Toulouse called for a motion.

Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny Appeal of Building Permit Number WBLD17-101171 for Richard Stone and affirm the decision by the Director of the Planning and Building Division to reject a building permit for a private retractable antenna taller than 45 feet tall at 4765 Giles Way. Member Thomas seconded the motion, which carried with four members voting yes and Member Stanley voting no.

B. Special Use Permit Case Number WSUP17-0017 (IVGID Bike Park) – For possible action, hearing, and discussion to approve a special use permit for the site grading and construction of earthen structures used for jumps and landing features taller than 6 feet in height for a Bike Park in Incline Village. The earthen structures will not exceed 10 feet in height.

- Owner/Applicant: Incline Village General Improvement District (IVGID)
- Location: 969 Tahoe Blvd, Incline Village
- Assessor's Parcel Number: 127-030-31
- Parcel Size: ±18.36 Acres
- Master Plan Category: Rural (R)
- Regulatory Zone: Parks and Recreation (PR)

- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 1 – Commissioner Berkgigler
- Section/Township/Range: Section 15, T16N, R18E, MDM,
Washoe County, NV
- Staff: Trevor Lloyd, Senior Planner
- Phone: 775.328.3620
- Email: tlloyd@washoecounty.us

Chair Toulouse opened the public hearing and called for any disclosures from the Board. Hearing none, he called staff forward. Trevor Lloyd, Senior Planner, presented the Staff Report.

Chair Toulouse opened up questions to the Board. Hearing none, he called the Applicant forward. Andrew Ryan, Pierre Design and Engineering, stated this was a request to build the structures as high as seven and a half feet as opposed to six feet. The total area for each landing zone that they were considering was probably only twice the size of the table he was standing at. He continued with his PowerPoint presentation.

Chair Toulouse opened up questions to the Board. Member Hill asked if there were any staff involved or parking, or would it be like a skate park where people would just come and go as they pleased. Mr. Ryan stated there would be some staff to maintain the facility, but it was mostly volunteers and parking would be adjacent to the existing Recreation Center and tennis court parking areas.

Member Stanley said he did not think it was mentioned in the presentation (inaudible) he wanted to know how many folks took advantage of this type of facility. Mr. Ryan stated it remained to be seen; it was currently under construction right now and would be fully opened in the spring of 2018. Member Stanley stated it seemed they would need to spray water to keep the dust down. Mr. Ryan stated there would be water for dust control. They would be under the same requirements of any area that had to control dust and revegetate the areas that would be disturbed as part of construction. They would also need water to keep the earth stable. If the earth dried out it would start to crumble and they would have to remake the jumps.

Chair Toulouse asked about the erosion on the landing ramps and how that would be taken care of to prevent it from getting into the Lake. Mr. Ryan stated the number one method would be source control to keep any storm water that was generated from migrating anywhere with velocity that could actually carry pollutants. All the area surrounding the jump features were relatively flat and would be well vegetated. They would be maintaining at least a 20-foot buffer from the riparian area with vegetation and mulch and in most cases that 20-foot buffer was much wider than that.

Chair Toulouse closed the public hearing and called for a motion.

Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with the conditions contained in Exhibit A to this matter, Special Use Permit Case Number WSUP17-0017 for IVGID Bike Park, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Stanley seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for the earthen structures to be used in support of the bike park and for the intensity of such a development;

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

C. Special Use Permit Case Number WSUP17-0019 (2 Cent Cattle Company) – For possible action, hearing, and discussion to approve a special use permit to allow the continuing operation of an existing commercial stable that was originally approved by Administrative Permit AP6-4-97, Administrative Permit AP03-008 and Amendment of Conditions AC04-0001. The previously approved permits on five different numbered parcels allowed varying numbers of boarded horses, varying number and types of special events, and allowed for the construction of a semi enclosed arena. This special use permit requests authorization to board up to 15 horses and host 15 special events / competitions per year at 3275 Lakeshore Drive (APN 050-320-16). Each event/competition is proposed to be limited to a maximum of 50 people on the site at any time and will be held during daylight hours only. The applicant also, requests modifications of parking standards to allow non-paved surface and reduction of landscape standards. This special use permit application will supersede all previously approved discretionary permits/actions on the subject site and discretionary permits/actions approvals that included adjacent parcels of land.

- Applicant/Property Owner: 2 Cent Cattle Company, LLC
- Location: 3275 Lakeshore Drive
Washoe Valley, NV 89704
- Assessor's Parcel Number: 050-320-16
- Parcel Size: 8.87
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 6, T16N, R20E
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
Julee Olander, Planner
- Phone: 775.328.3622 (Roger), 775.328.3627 (Julee)
- Email: rpelham@washoecounty.us
jolander@washoecounty.us

Chair Toulouse opened the public hearing. Julee Olander, Planner, presented the Staff Report. Chair Toulouse opened up questions to the Board. Mr. Webb there had been four previous actions on this property in 1997, 2003, 2004 and 2006. He said there was no way staff could determine what exactly was allowed on this property because there were conditions that had been met and conditions that had not been met, conditions had been changed and properties that had not been developed and would never be developed. That was the reason Washoe County was the Applicant in this Special Use Permit, dragging the landowner along to make sure in the end it was clearly understood and articulated for both the property owner and the neighbors as to what would be allowed as a part of the Special Use Permit on this property.

Member Thomas said a question that was raised by people in the area was amplification during these events. Ms. Olander stated she understood there was going to be loudspeakers for the arena area. She said she talked to the neighbors and the impression she got was that the previous owner had held most of the events at night and that was the problem. Since this was going to be limited to daylight hours, the neighbors seemed to be more comfortable, but there would be some kind of announcing during the events.

Member Thomas said the Applicant indicated they were going to board up to 15 horses and according to Exhibit I, it stated 15 boarded horses and six personal horses. Ms. Olander stated that was correct; the owner built a small barn next to his residence and it was a 6-stall horse barn. She said previous permits allowed up to 36 horses on the property.

Member Lawrence asked if they were looking to transfer their water rights from other parcels to this specific one. Ms. Olander said that was one of the areas that still needed to be addressed; it was in the conditions of approval that they had to acquire the water rights before they could get their business license. She stated there was a list of other things they also had to complete before they could get the business license. Member Lawrence asked if there was a condition to have a water meter placed on the well so they would know that water was being used at the appropriate rate and not over-used or abused. Ms. Olander stated they met with the water manager, Vahid Behmaram, and he explained to them that State law did not require a water meter for commercial stables. Member Lawrence asked if County law required any.

Roger Pelham, Senior Planner, stated the water rights requirement took into account how much they were going to need for the activities they were doing; once those water rights were obtained and transferred and at that point of diversion, the County would sign off. He acknowledged there may be monitoring from the State Engineer, but that was really outside the purview of Washoe County.

Mr. Webb stated that was actually one of the conditions that had not been met on one of the four previous approvals; there was supposed to have been adequate water right dedication for the commercial stable operation. This new property owner, to continue in operation, would have to acquire and provide those water rights.

Member Stanley asked if there was any control over the amount of noise during the planned events. Mr. Pelham stated the practical answer was not really. He said Article 414 contained certain requirements that someone could not make noise that was very loud over a long period of time. He said the practical limitation on the noise was simply going to be the fact that these activities would be during daylight hours only.

Chair Toulouse requested a definition of daylight hours. Mr. Pelham stated that would be sunrise to sunset and there were tables that said what those hours would be on a daily basis. Chair Toulouse asked if that should read sunrise to sunset tables, because he thought the wording was too broad. Mr. Pelham said the Board could direct staff to make that change. Mr. Webb said that should be articulated during the motion to ensure incorporation. Chair Toulouse said that was his concern, especially after having read the comments that talked about amplified sound. He thought it was within the purview of the Board to add to the conditions of approval for no amplified sounds during an event. Mr. Pelham said the Board could do that.

Chair Toulouse called for public comment. Cathy Brandhorst spoke on issues of concern to herself.

Chair Toulouse closed public comment and brought the hearing back to the Board for discussion. Chair Toulouse stated under Administrative Permit Case #AP6497, Condition #10, it stated no events may be held before 8:00 am or after 9:00 pm and the lights shall be turned off during those hours. He said that made sense to him and he thought that could be added as an operating condition for this project. Mr. Pelham stated that was well defined and could be added per the Board's direction.

Member Stanley stated he thought 8:00 am was reasonable, but he was not sure 9:00 pm would be agreed upon by the neighbors as daylight hours. He suggested a little earlier such as 7:00 pm. The other question he had regarded amplified sound. He wondered if an event could be held without a loudspeaker. Ms. Olander said she agreed these events would need some type of amplification, because this was a large arena. She thought limiting the hours would be helpful, but she felt the neighbors would appreciate events being completed by 6:00 pm.

Mr. Webb informed the Board this was an indoor arena, so there could be some consideration for amplified noise on the interior, as well as some limitation to amplification on the outside of the arena. Ms. Olander stated the announcer would have to have some type of amplification on the outside for participants to hear.

Chair Toulouse stated he would like to add under Operational Conditions VI; events would be limited from 8:00 am to 6:00 pm on a daily basis.

Chair Toulouse called for a motion.

Member Stanley moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with the conditions included with Exhibit A and amended under Item VI Operational, that the facility be operational between the hours of 8:00 am to 6:00 pm, to this matter and approving the modification to parking standards to allow a non-paved surface, Special Use Permit Case Number WSUP17-0019 for 2 Cent Cattle Company, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Thomas seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the South Valleys Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for commercial stables, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

THE BOARD TOOK A FIVE-MINUTE RECESS.

THE BOARD RECONVENED WITH ALL MEMBERS PRESENT.

D. Administrative Permit Case Number WADMIN17-0007 (Dunham Detached Accessory Structure) – For possible action, hearing, and discussion to approve an Administrative Permit to allow the construction of a detached accessory structure that has a larger building footprint than the main dwelling on the same parcel of land, in accordance with Washoe County Code Section 110.306.10.

- Applicant: Gary L. and Pamela S. Butler
- Property Owner: Gary L. and Pamela S. Butler
- Location: 17380 Cold Springs Drive
- Assessor's Parcel Number: 087-081-02
- Parcel Size: ±0.35 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Cold Springs
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 310, Temporary Uses and Structures
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 21, T21N, R18E, MDM, Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.36222
- Email: rpelham@washoecounty.us

Chair Toulouse opened the public hearing. Roger Pelham, Senior Planner, presented the Staff Report. Chair Toulouse called for any disclosures. Hearing none, he opened up questions to the Board. There were no questions.

Chair Toulouse called the Applicant forward. David Dunham, owner, stated his request was for a garage and his property was a half-acre short of 40 acres, which caused the Permit process. He noted he wanted to do this before winter. Chair Toulouse opened up questions to the Board.

Chair Toulouse called for public comment. Michelle Whitford, 6005 Winnemucca Ranch Road, said she lived directly across the street from the Dunham's. She stated in 1995 Washoe County acquired property all along Winnemucca Ranch Road through eminent domain and it took about one and a half years before all the property was acquired and the road was paved. She stated most of the properties went from 40 acres or a little more to slightly under and that was what was happening with this garage. The property was very attractive and the garage would not show from the road.

Chair Toulouse closed public comment and called for discussion. Member Stanley said he was kind of curious as to why the acreage showed a little over 38 acres and not a full 40 acres.

Chair Toulouse called for a motion.

Member Thomas moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN17-0007 for David Dunham, with the conditions of approval included as Exhibit A to this matter, having made all four required findings in accordance with Washoe County Code Section 110.808.25. Member Stanley seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Warm Springs Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for a detached accessory structure, larger than the main dwelling, and for the intensity of such a development; and
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

F. Special Use Permit Case Number WSUP17-0014 (Gail Willey) – For possible action, hearing and discussion to approve, partially approve or deny a special use permit for the business operation of Gail Willey Landscaping and Colorock, which the applicant has described as a wholesale nursery facility with incidental retail sales. Staff has classified the proposed operation under the following uses: Wholesaling, Storage and Distribution – Heavy; Construction Sales and Services; and Wholesale Nursery. If approved as submitted by the applicant, the permit would generally include (1) the sale, storage, and disposal of trees, flowers, plants, and associated landscaping materials, (2) the sale, storage, and disposal of various types of rock, (3) the use of a variety of storage and office facilities on site, (4) parking for customers and employees, and (5) the use of a variety of trucks and other vehicles, machinery, and equipment associated with the operation. A separate special use permit (not yet submitted) would be necessary to facilitate proposed access to the operation, which would include construction of a vehicle bridge across Steamboat Creek, a Significant Hydrologic Resource.

- Applicant/Property Owner: Willey Land, LLC, Attn: Gail Willey
- Location: 134 Andrew Lane, approximately 500 feet south of its intersection with Highway 395
- Assessor's Parcel Number: 017-430-01

- Parcel Size: ±35.9-acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, *Special Use Permits*
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 5, T17N, R20E, MDM,
Washoe County, NV
- Staff: Kelly Mullin, AICP, Senior Planner
- Phone: 775.328.3608
- Email: kmullin@washoecounty.us

Chair Toulouse opened the public hearing and called for any disclosures from the Board. Chair Toulouse disclosed that he did a site visit yesterday. Member Thomas said he also did a site visit. Kelly Mullin, Senior Planner, presented the Staff Report.

Chair Toulouse opened up questions from the Board. Member Hill (inaudible) asked if the Applicant was amenable to these conditions and limitations of approval. Ms. Mullin stated she would let the Applicant's representative speak to that, but her understanding was no.

Member Stanley said Ms. Mullin mentioned some Special Use Permits that were associated with this, but then were changed because of the sizing down of the application. He also questioned a possible SUP by the Corps of Engineers for a bridge. Ms. Mullin stated the Washoe County Code required, through Article 438, that crossing any significant hydrologic resource (Steamboat Creek) would require a SUP. If the Applicant requested to cross the Creek it would be provided to the Army Corps of Engineers along with a variety of other reviewing agencies. Member Stanley asked if the change in the business type would affect the SUP process or would that be necessary in any case. Ms. Mullin stated it would be necessary in any case.

Chair Toulouse called the Applicant forward. Garrett Gordon, Attorney, stated he was representing the Applicant. He presented their PowerPoint presentation to the Board. Chair Toulouse opened questions from the Board.

Member Thomas said in 1998 the Applicant went before the Board of County Commissioners (BCC) and the nursery was approved and the Colorock was not. Then in April, 2017 they went before the Planning Commission to get the Development Code amended to allow for industrial use and that was denied also. He wondered what had changed from those two items that had been denied by two different Boards.

Mr. Gordon stated rocks were not allowed and the denial in 1998 was based on the number of trucks and the size of the trucks given how much traffic would be on US Highway 395. The change was the new freeway to Carson City and the trips were now around 6,500 instead of 42,000. He said when the Applicant approached him, he held a staff meeting and looked up the definition of nursery sales and he agreed it should be a nursery; however, he thought they should move forward with the wholesale distribution application because there was aggregate mining, mining exploration, batch plants and wholesale distribution businesses and this could be approved. He stated they moved to the Planning Commission and they did not have a problem with adding that as a use. The issue was there was a 40-acre limitation on the size of the parcel that could operate that use. He said there was a lot of discussion between staff and the Planning Commission regarding why would they pigeon it to 40 acres when the acreage was 38. It was denied, but he said he wanted to take it up on appeal based on the Commissioners stating it wasn't that big of a deal. He said they were not talking about the property, it was a text amendment adding this to General Rural with a Special Use Permit. He said they believed the application before this Board was the appropriate one.

Chair Toulouse said they had the opportunity to review the denial from 1998 and called Trevor Lloyd, Planning Manager, forward. Mr. Lloyd stated he was the planner who reviewed the request in 1998, and the Applicant was correct in stating there was a good deal of discussion about traffic and at the time there was significantly more traffic on US Highway 395 than there was now. He stated traffic was not the only concern,

there was a lot of discussion about the definition of a nursery. He said there was also a lot of discussion about what was wholesale and what was heavy wholesale storage and distribution, versus wholesale nursery. It was a general concern that what the Applicant was doing represented heavy wholesale storage and distribution, which was an industrial use type.

Member Stanley asked if federal land was adjacent to the property. Mr. Gordon stated one of the neighbors was federal land to the south. Member Stanley asked if they had been in touch with the BLM regarding their concerns with this project. Mr. Gordon stated he had not, but they had been noticed for this hearing and had not commented. Member Stanley asked if he and the Applicant appeared before the CAB meeting and Mr. Gordon stated they did and it was very hostile. Member Stanley asked if they addressed any of that hostility in the way they were approaching the project. Mr. Gordon stated they did and he sat down with the Willey's and went through his eight pages of notes and sent a follow-up letter to staff pursuant to the South Valleys Area Plan. He said if this was looked at objectively, they met all the criteria. He gave the neighbors a lot of credit; it was a very smart, cohesive, educated, neighborhood and a lot of their questions were not related to today's hearing, but dealt with their grading permit, their permit to go over Steamboat bridge, how their properties would be impacted and the Army Corps of Engineers approval for the wetlands delineation. He said they were required to go to the State Engineer's Office and get a permit and a lot of the water questions would be dealt with at that time. He believed while their questions were relevant to the entire project, some of those things would be dealt with at a later time with other agencies.

Member Stanley asked if the Applicant was in agreement with this particular application. Mr. Gordon said Gail Willey Landscaping and Colorock were in agreement with being able to operate on this property and with all the conditions of approval. He said they understood that if they did not meet all the conditions of approval timely and completely, they would lose their Special Use Permit.

Member Thomas asked if this property had ever been used for the nursery. Mr. Gordon stated it had not; it was owned by the Willey's in 1998 and they requested a Use Permit, but it was denied to allow for Colorock. It was flawed for them to proceed because they did not want to be doing business in two different locations, so they sold the property. Over the last 18 years they had been looking for other property and when this property came back on the market, they felt like with the changed circumstances with US Highway 395 and the traffic, and the ability to mitigate with the nursery stock, etc., this would be suited for this location. They purchased the property and filed the application. Member Thomas asked if this was an "all-or-nothing" request including Colorock. Mr. Gordon stated that was correct.

Chair Toulouse opened public comment. Kathy Peltier, 21025 Ames, stated she was asked to speak on behalf of Lonnie Wilks, who could not attend. She said Ms. Wilks owned the property at 136 Andrew Lane, which adjoined the Willey's property. Ms. Wilks and the Willey's shared a fence on the northside of the property. Ms. Wilks lived in the Valley for 60 years and she had witnessed every major flood that had occurred. Ms. Wilk's biggest concern was that Mr. Willey would be allowed to build in the FEMA flood zone. Ms. Peltier stated the County was aware of the flooding as they put a dip in Andrew Lane many years ago and have also had to replace the bridge, not only on Andrew Lane but on Rhodes Road. She noted there had been times when the residents had to park on Old Highway 395 in order to get in and out of their yards. When flooding occurred in the Valley, trees, branches, field debris, railroad ties and fence posts were carried into the Valley from the flood waters. Mr. Willey wants to put the buildings, bins, colored rocks, piles and trucks in this flood zone, which could wash downstream. She said Mr. Willey attempted to get a Use Permit in many different ways and had been denied more than once. She asked the Board to deny the Applicant from bringing his heavy industrial use to the General Rural zone and destroy the elements that made the Valley rural. She noted the County just recently addressed flooding in the North Valleys and the government wanted to buy up land in flood zones so they would remain vacant.

Delia Greenhalgh, 140 Andrew Lane, stated she served on the Pleasant Steamboat Valley Landowners Board for 20 plus years. She said she worked many hours with residents in the County on their Master Plan and this heavy industrial rock business was not compatible with the South Valley Area Master Plan and surrounding land use in a General Rural zone. Heavy Industrial Use had been limited to the Industrial Regulatory zone and never allowed in a General Rural zone, even with a Special Use Permit. She stated Mr. Willey's Colorock business was denied by the BCC in 1998, due to it being inconsistent with other use types allowed in a General Rural zone. The Planning Commission denied his application to allow wholesale

storage and distribution in April, 2017, classified as Heavy Industrial Use in the General Rural Regulatory zone with a Board of Adjustment Special Use Permit. Also, all four findings of fact that the Planning Commission addressed were found not to support this proposed Development Code amendment. At the South Valley CAB meeting on September 14, 2017 it was denied by all members indicating that this type of land use was inappropriate for the location. Mr. Willey owned 35 acres and only seven acres of that parcel were suitable for the proposed use. It was un-useable because both Steamboat Creek and the Big Ditch traversed the lot and it had a steep hillside slope along the entire southeast boundary. She said they were estimating 312 trips per day and the noise and air pollution, dust, diesel fumes, soil erosion and heavy equipment use would be unavoidable. Pleasant Valley was the link between the Mt. Rose Highway and the Washoe Scenic Corridor. She said the Board supported their rural way of life in the past, and she asked them to not disregard years of sound and established precedent to make a change for one individual.

Barbara Twitchell, 184 Concho Drive, stated this was about people who had invested their lives and money into their homes; people who selected and chose to live in an area that had a certain ambience and country lifestyle. She said it was not possible for them to pick up their house and move somewhere else, they had to fight to protect the lifestyle they created. She said they realized there had to be commercial development, unfortunately, this particular commercial development did not fit in with the area. She asked the Board to visualize the noise, the dust and everything that would come from that type of use and stated she felt this would fit better in another area. She said the rocks would not just sit there, they had to be brought in and taken out and that would create noise. They talked about other businesses, but those were located to the north of this neighborhood and there were no adjacent homes to them. This would negatively impact the quality of their lives, their home values, public safety and it would change everything in the area. She asked for denial of the request.

Linda Harrison, 395 US Highway 395, stated this would not just affect the people in Pleasant Valley. She felt there was still a lot of traffic in the area and school buses that route every day. The trailer business and the storage business were there, but they did not make 100 trips a day. The two-mile stretch before and after the curve at Andrew Lane was the most dangerous area of the road between Mt. Rose Highway and the Bower's turnoff. She said she had called four times since I-580 opened about horses on the road. She said a few years back she attended tons of meetings at every single level for the Master Plan and the Area Plan and they did everything possible at those meetings to avoid this. She said she tried to review the staff report, but it was 129 pages long. Hours of research and hours of opinion and they came to the exact same decision that was made in 1998, which showed that no Special Use Permit should be allowed to change the Master Plan. She felt this would set a precedent and then there would be more and more exceptions. She discussed the marijuana super store that was going in and said she was glad some of the board members drove out and looked at the site.

Paul Howard, 145 Andrew Lane, stated he wanted to address the existence of the wind corridor, specifically the impact on the property the Applicant was proposing to occupy. He said he supported the Applicant's business model, because his own family enjoyed that kind of business for three generations. He felt it was just not right for this property site. The wind corridor was similar to the wind corridor in Washoe Valley; it caused trucks to be blown over regularly. The wind corridor started in the gap between Slide Mountain and Mt. Rose Peak and came down the valley system into Pleasant Valley. He cited when one of the main support rebar structures for the arch bridge was blown over by a wind that no one knew could happen. The people who lived there knew about the catastrophic winds, but no one in the County or the State told the contractor about how bad the winds could be. It blew over a seriously strong rebar support column and cost the taxpayers millions of dollars. The winds could cause the material yard to be blown downwind. The heavy rock would not blow around, but all the gravel and sand would end up in his yard. He requested the Board acknowledge the existence of the proven wind corridor and reject the Permit.

Sharol Erickson, 2100 Rhodes Road, stated she opposed the project. She said this had been opposed several times already and not much had changed. There were still traffic issues regarding the school buses, no stop lights and the blind curve. She said the traffic decreased a little bit when I-580 was constructed; however, with the proposed development Washoe County was doing the traffic had already begun to increase.

Dale J. Eastep, 201 Sauer Lane, stated he lived in Pleasant Valley for 25 years. They had an excellent elementary school, a beautiful residential area where kids could still play in the streets and ride their bikes, and across the street from his home the children had built a fort. He said this addition would not benefit any of them. The number of people who would be introduced to an area that was now a little bit out of the way, would want to move there and the current residents did not want that.

Marcy Jordan, 605 Chance Lane, stated Mr. Gordon did a good job of representing his client. He would like the Board to be objective about this project and talk about definitions. He noted staff did an in-depth report for the Board and they came to the same conclusion that the Board had always come to. He stated this was absolutely an inappropriate place to have a heavy industrial project. The Applicant's property ran along the whole corridor of South Virginia and I-580. He wondered if the Board thought this property would be restored and there would not be erosion and everything would be beautiful. He believed if John Rose was present, he would tell the Board Mr. Willey was really not that good of a neighbor because he did not follow through on his promises. He asked the Board to deny this.

Jim Noriega, 135 Cottontail Lane, stated he would like to thank Planner Mullin for the great analysis. He said no doubt the Board heard neighbors in neighborhoods who were concerned about a higher density, industrial commercial use getting a foothold and setting a precedent to let something else come in. He stated the Applicant confirmed that by stating there was this business down the street and that business down the street and "we" should be there too. The Applicant recognized this was an incompatible use, because they were offering to buffer with trees and other things. If the County Plan required that the use enhance properties of the area, then it should not need buffering, mitigating, camouflaging, fixing, etc.

Ginger Pierce, 20885 Eaton Road, stated she was the President of the Pleasant Valley and Steamboat Landowners Association. She worked with the State Water Engineer, NDOT, Army Corps of Engineers and many others. She showed pictures that were presented to the Army Corps of Engineers. The first one showed the steep hill that was shown as open space on the map and it had a trail along an old ditch that turned into a road and there was nothing that could be done with it. The second picture was of the Big Ditch and it ran from the Creek over to the first picture and along the edge all the way along the property. She said the third picture showed the area that was wetlands. All of those plants were willows and there was nothing that could be done with it, although the Applicant planned to put a big building there and rocks. The fourth picture looked down on to the Big Ditch that ran along the edge of the hill and it had been there forever and nothing could be done with it. She noted the Applicant had no water rights. The last picture showed where the Applicant wanted to put a bridge across the Creek, which was denied before. She said she did not understand why anyone would want to build offices and warehouses and park their large expensive trucks in a flood plain.

Kathy Howard, 145 Andrew Lane, stated the current location was on a straight piece of US Highway 395 and to move down to their neighborhood it would have a very bad turn. At the Applicant's current location, the speed limit was 35 mph and this would be in a 50 mph zone. There were no lights in any direction for many miles, except three miles away at the Mt. Rose intersection. At the Applicant's current location, they had two stop lights, one going north and one going south, hence they had no accidents there. She encouraged the Board to deny the Permit because she did not think this would make their community safe, secure and healthy.

Bodie Monroe, 230 Rhodes Road, stated he had the privilege of growing up in the Valley, still lived there and his kids went to school there. He said the reality of comparing the trailer dealership and the Anchor Storage to this project was like comparing apples with oranges. The noise generated from those businesses failed in comparison to a landscaping yard. He used to run a landscaping business and had done business with Gail Willey on Old Virginia Road. He said he knew landscaping and it was not quiet and it was not clean and when those flood waters rose all of that debris would head straight for his house no matter what work the Applicant would do. He said flood waters were already prone to being kind of nasty, but what else would come down with the water from a landscaping yard, he was not sure. He asked the Board to think about this and deny the request.

Kim Wallin, 135 Cottontail, stated she was asking the Board to deny the Special Use Permit because it did not have the proper zoning and if the primary purpose was to have a wholesale nursery then the percentage of space to be used for the rock part of the business should be limited. The property was also in

a regulatory floodway, according to FEMA. If a property was in a regulatory floodway that meant that communities must regulate development to make sure there was not an increase in flooding upstream or downstream. She stated she was concerned with adding the buildings, the 50 rock bins and the parking lots that could create additional flooding issues. As a former member of the State Transportation Board, she was somewhat familiar with NDOT's priorities on various roads. Now that I-580 was open, US Highway 395 was no longer a top priority. With the additional traffic and heavy trucks on the road it would require more maintenance and she did not think NDOT had the resources to maintain it. She said with the big trucks and additional traffic, there would be the need for acceleration and deceleration lanes. She wondered who would pay for those and she was not sure there was even space for them. Another concern of hers was possible mercury in the area. She wondered if there would be testing before they started digging things up and it started flowing downhill. She said if the Board began making exceptions, Pleasant Valley would soon be nothing more than an industrial area. She saw it happen in Las Vegas where they had some areas that were zoned for rural and they started allowing for some exceptions and pretty soon people could not have their horses and chickens. She did not want Pleasant Valley to turn into Las Vegas.

Celine Cinq, 17995 S Virginia Street, stated she lived across the street from where this business was being proposed. She said concerns regarding water were mentioned earlier for the 2 Cent Cattle Company and she wondered about the need to water this property regularly to keep dust down. She stated Mr. Willey's business at their current location was surrounded by other traffic, which kept the noise drowned, which made it hard to sense how much noise Mr. Willey's business would generate in this area. She believed being surround by hills would not muffle the sound, but rather amplify it. She said she could hear cars pass by, planes overhead, avalanche control on the Mt. Rose Highway, cyclists talking as they rode by, and that was while she was in her home. Outside she could hear the rustling of the wind and the leaves in the trees and water in the Creek; in other words it was an environment that did not have constant noise, which made it that much easier to hear anything and everything. She requested the Permit be denied.

Jerome Fritz, 17995 S Virginia Street, stated the other morning he came out of his house and smelled diesel fumes in the air so he walked over and saw that it was coming from a truck parked where the proposed driveway was going in. In the morning diesel fumes did not rise up they sunk down and he was thinking that if the business had a bunch of trucks warming up in the morning, all those fumes would be blocked in by the hills and funneled down. He said in the morning it was still or slightly windy and he felt those fumes would blow toward his property, Andrew Lane and Rhodes Road. He did not think that would be good for their health. He totally opposed this and hoped the Board would deny it.

Anne Peirce, 20490 Temelec Way, stated she lived in the area over 45 years and much of what was heard today had also been expressed at the CAB meeting. She said they were very much opposed to the project, because it was simply not appropriate for the area and went against the South Valleys Area Master Plan. She said it was undeniable there would be an increase in noise, dust, fumes, traffic hazards and it did not even meet the minimum size of 40 acres. She said silica had not been mentioned, but she considered it among the highest of health importance. She said silica, often referred to as quartz, was a very common mineral found on construction sites and in soil, sand, concrete, masonry, rock, granite and landscaping materials. Those dust particles were very small, but it only took a small amount of air borne silica dust to create a health hazard. She said this was so serious that OSHA began enforcement of the new silica standards in construction and in March 2016, OSHA gave their final ruling to protect workers from exposure to crystalline silica. She reported she got her information from the Center for Construction Research and Training. She requested the Board stop the project.

Marilyn Cobe stated she had numerous signatures on a petition against this and 380 signatures on their website Change.org and she wanted them put it on public record. She also had some letters from people who were not able to attend. She agreed with what everyone else had said. She commented to Mr. Willey that it was a beautiful piece of property and she urged him to build his home there and move there to enjoy the area with the rest of them.

Frank Cadjew, 9825 S Virginia Street, stated he owned the property where Mr. Willey's company was currently located. Mr. Willey had been with him for almost six years. It started with a three-year lease with a three-year option. He said they were located across the street from a Wendy's, IHOP, WinCo and to the south was the South Ridge Plaza. To his knowledge they had zero complaints about noise, dust or trucks.

He said they did not work at night and his home and office were on the property and they had never been bothered by the noise. He said the trucks went in and out on South Virginia on a daily basis and they never received a traffic ticket, which he felt that was an amazing record. He noted they washed all their trucks on a weekly basis to keep them neat and clean. They had two water trucks that ran all day, they watered the roads going in and out, they watered the rock bins and they enforced a 5 mph speed limit to their best of their ability. He noted that Mr. Willey just purchased a tree planning company and had equipment that could handle a 20 to 30-foot tree. They were a great barrier for noise, dust and unsightliness. The entire management team for Gail Willey was family. He said he was speaking highly of this company because he had discovered in the last six years that they had integrity, had always been honest with him and were professionals. He said they were leaving their current location only because they wanted to own their own property. In six years they had a zero footprint, which was hard for everyone to understand. He said if they wanted to talk to Gail Willey, he would talk to anyone and if someone had a problem, Mr. Willey would handle it. He said the Applicants were good people.

Smithers Marquez, 9825 S Virginia Street, stated she was the Office Manager for Frank Cadjew. She noted the Cadjew's had many rental properties from commercial to residential and she handled all of them. Part of her job was to deal with tenants, leases and service. Gail Willey Landscaping and Colorock had been their tenant for six years and they ran their business efficiently and properly. If there was ever an issue, Gail, John, Parker and Suzanne would be there to handle the situation. She said they placed all of their concrete bins and roads with the intention to make traffic flow easily and minimize dust and noise. She said they had dump trucks, triples, doubles, loaders, trailers and they were all very well coordinated. She believed traffic was not an issue. They had water trucks to eliminate and avoid dust problems. She said the property had many trees, which made great buffers. They made sure their trucks and equipment started and stopped during normal business hours. In the last meeting people voiced their concerns and they did not go un-noticed. Gail Willey was the type of neighbor who listened, took in the concerns and resolved the issues. She said Mr. Willey cared about the community and the community cared about doing business with him. Even some of the neighbors who spoke at the last meeting had used Gail Willey's services. She said the community was growing and growing in all different directions, whether they liked it or not.

Richard Mahoney, 625 Rhodes Road, stated from Old US Highway 395 to Mt. Rose Highway to Carson City, you had a real sense of a transition neighborhood; a place where people connected with nature. There were various retail establishments, but most of them were more agriculturally oriented and understated. He thought what they were all talking about was a major change from that type of an environmental ambience. His other concern was they would have water trucks to keep down the dust and that water had to go somewhere. He thought it would go into Steamboat Creek and that Creek fed the Big Ditch, stock water and irrigation water. He said there were questions that there may or may not be toxins in that water flow. He would like the Board to consider that in their deliberations.

Brigitta Rosenbaum, 132 Andrew Lane, read a letter from Aaron Rosenbaum who could not attend. His concerns were that a Special Use Permit was predicated on a number of conditions of approval and the Applicant had to fulfill those conditions. When Mr. Willey previously owned this property, he accessed it through his driveway. He noted they seriously rutted the graveled driveway making his ingress and egress difficult. Mr. Willey promised to relevel and re-rock the driveway, but he did not. In the late 1990s when Mr. Willey owned the subject property, his trucks took out his mailbox twice. Mr. Willey promised to repair or replace the mailbox; however, he did not. When the January floods hit his driveway, Mr. Willey promised to smooth the driveway so that he could get in; however, that did not happen. When Mr. Willey needed more clearance for the taller trucks, he asked Mr. Rosenbaum to significantly prune his trees. Mr. Willey said he would haul away all the pruned branches; however, he did not. Mr. Rosenbaum felt Mr. Willey did not have a history of following through on his promises; how then could the community expect him to conform to the conditions that might be set for his industrial use of a rural property.

Marijke Bekken, 132 Andrew Lane, said she was an environmental scientist and she had significant reservations about the proposed use of this parcel and the impacts she would address should not be considered exhaustive, because many important environmental issues may not have been addressed. She provided each of the Board members with a copy of a draft Environmental Assessment that she conducted. She went through a PowerPoint presentation, which contained the Assessment.

Jacob Rosenbaum, 132 Andrew Lane, continued the Environmental Assessment presentation given by Ms. Bekken.

Charles Rosenbaum, 155 E 6th Street, finished the Environmental Assessment presentation started by Ms. Bekken. He also read from a letter that was written by Herschel Rosenbaum citing his concerns. Mr. Rosenbaum stated he ran a vacuum repair business from his home. He was not allowed to have more than about three customers per day. Mr. Willey would like to put in sixty parking spaces and while some of those spaces would be for his trucks and employees, many would appear to be for customers. He said that was not equitable to the requirements for his business. Mr. Willey was also proposing to put in a bridge from the US Highway 395 to his property. He said that may not be allowed due to the proximity to Andrew Lane and the flood plain. Until the bridge was built, Mr. Willey must access his property through Mr. Rosenbaum's driveway. Although the driveway was a separate parcel from his residence, the driveway was used by the children in the neighborhood as a playground. He was also concerned for the children's safety when the trucks would be using that access in the early morning and evening hours when it was dark.

Jim Phelan, Paddlewheel Lane, stated the area where the project was to be was in a very narrow spot between the hills and when the wind blew it would act as a funnel. He thought that would greatly increase the dust. He stated he was concerned about pollutants getting in the Creek and how that would be mitigated. He said when he moved to the area, he did not envision a landscaping business being allowed. He thought the Pleasant Valley complex was sacrosanct as a rural area and he hoped the Board would deny the request.

Douglas R Studwell, Jr., 315 Sanctuary Way, stated he lived about two and a half miles to the south of the project. He drove through Pleasant Valley all the time and a lot of traffic came from Old Washoe City and the New Washoe City, to and from Reno. He said there was higher speed traffic, no stop lights and with slow heavy trucks attempting to enter into and out of the property, would possibly cause some accidents. He noted the Applicant's present location had three lanes with a center turn lane and the speed limit there was 35 mph with controlled ingress and egress. He said he visited the site because he procured material from them and he agreed that was an industrial area. He said the subject was in a flood plain and one half to two-thirds of the property was hillside and a prime location for open quarrying of dirt, gravel and rock. He said the type of business adjacent to the subject was allowed for a rural residential area. He spoke about his concerns regarding dust, winds, fumes, flooding, and traffic. He noted the number of people in the audience who were opposed to the project and he requested the Board deny the project.

Marilyn Naylor, 1005 Dunbar Drive, stated she would like to thank Planner Mullin for her presentation, including the text from the South Valleys Area Plan. She said in 2005 the County invited the residents from the South Valleys to come together. She noted they had been to endless meetings, endless communications, and Planners guided them through the process. They completed the South Valleys Area Plan and the Washoe County Parks and Recreation also completed the adjacent scenic byway designations and corridor management plans. She said US Highway 395 went through three valleys, was a scenic corridor offering peaceful, bucolic scenery, pastoral respite and magnificent mountain views. Maintaining the scenic, agricultural and rural characters of the valleys would provide an important break between the more urban and suburban landscapes of Reno and Carson City. Washoe County Planning brought the community together and made the decisions of what was best for their entire community.

William Naylor, 1005 Dunbar Drive, stated the Applicant made mention of a bunch of businesses that were in the area where he proposed to move his. He said those businesses were appropriate for commercial zoning. He said Industrial Use was not allowed anywhere in the South Valleys. He read part of an email from a citizen who said he knew the neighborhood in Sierra Manor and all the residents got together and signed a petition, which was presented to the property owner leasing to Colorock on South Virginia. The owner told the property owners that they would not renew Colorock's lease and the residents had been waiting for them to move. The sound of the beeps, loading rocks into trucks and consistent vibration of large trucks had destroyed the peace of their homes. He said the noise woke them every morning.

Cliff Low, Washoe Valley, stated he did not live in Pleasant Valley, but lived in Washoe Valley. He thought he heard a question as to whether the rock business had to go with the nursery business and the answer was yes. That would mean to approve this application, the Board would have to go beyond staff's

recommendations, which was the nursery might work, but not the rock business. He said the Applicant was in the landscaping business and they offered to buffer with trees, but he wondered how they would do that. He asked if they would do that at the beginning and put in mature trees big enough to provide a buffer, or would they delay their operation for years while they waited for the trees to mature. He said there was a concept in law regarding the right to use your property, but common law also talked about the fact that you could not deprive others of the right to enjoy the use of their property. He thought this project would deprive the neighbors of their right of a rural residential area. He said General Rural was the classification for the Spanish Springs Valley ranches and he could not see this type of business going there or in a place like Mogul. He said to grant this application would be a terrible precedent.

Suzanna Stephens 245 McClellan Drive, stated her concerns revolved around threatening the rural character of their communities and possible contamination to the water. She was also concerned about public health risks related to silica, diesel and pollution, which affected the elderly and children with asthma. She said there were industrial zones to keep that type of stuff away from the general population. She stated there were a lot of cyclists going up and down the road to the schools. She said Andrew Lane had a blind curve and they had to be very careful. She wondered what the children on bicycles would do when they were faced with a three-trailer long truck coming at them. What about the cyclists that go down to Washoe Valley and Davis Creek Park and Bower's Mansion, what would they do. There was a bicycle path being planned near Washoe Lake Park and what impact would these heavy vehicles have on the cyclists. She said the wild horses had a hard-enough time and if there were monster trucks added into the equation, it would be much harder for them. She thought the Applicant's business was a necessary business, just not in this location. She requested the Board deny the project.

Jason Aceres, 265 Theobald Lane, stated he only lived in the area a few months and he had no facts, nothing against the Applicant and did not know what was good or bad. He stated after listening to everyone speak he had formed an opinion. He said he was counting on the Board to listen to the facts and make a good decision. He told the Board he moved from Sparks to this area to get away from everything. He felt if something was moving in and he did not step up and say something, then he was at fault for allowing things to happen that he did not want to happen and complain about it later.

Jack Greenhalgh, 140 Andrew Lane, stated 18 years ago Mr. Willey took agricultural water off his property in trucks and sold it for industrial use, which he thought was illegal and he also took dirt from the hillside without a permit. He was concerned who would police this if he did it again. He said the plot plan did not show the equipment he had on South Virginia. He noted Mr. Willey had piles of dirt, classifiers and front-end loaders. He lived through quite a few floods in the area and one time he walked up to the head of the ditch and there was six inches of water from the hillside all the way to US Highway 395. He stated he had a flood study from 1861 to 1976 and it talked about the different floods and it said the old Ferreira ranch was damaged more in those floods than any other place and it took them about two years to regrade it. He noted every time a flood happened through his property, he had to re-level his field.

Cindy Short, Pleasant Valley, was not present.

Cathy Brandhorst spoke on items of concern to herself.

Kelly Dean, 225 Steamboat Court, stated he lived very close to the project. He said what had changed from the time the Applicant started this process and now was nothing. He said the Applicant used a backdoor way to change the regulations for the entire County and when that did not work they decided to go through the application process. He said the Willey's had a small dump transfer station, which was a concern. He was sure the Applicant would testify they used the transfer stations for branches, but he had seen it and it had been used for construction refuse. He urged the Board to remember how many times the highway had been closed due to high winds. He felt this was inappropriate, especially when they talked about taking some of that hillside away and using separators to separate small rocks from large rocks, which caused a lot of dust. He asked the Board to deny the project. Chair Toulouse disclosed he was friends with Mr. Dean and they had done volunteer work at the agency where he was formerly employed, but he had not discussed any of this project with him and they had no pecuniary interest. Member Thomas said he also knew Mr. Dean and spent about 10 years with the same agency.

Darci Fletcher, 835 Brenda Way, stated there was 35 acres currently for sale right next to the subject and she wondered if there were future plans for that piece of property from the Applicant. She said she opposed this project.

Chair Toulouse closed public comment and brought discussion back to the Board. Member Stanley said he understood the Board could entertain staff's recommendations, rule against the project, or the Board could accept all of it including the two industrial components. DDA Edwards stated the Board could deny in total, could grant in part and deny in part, or grant in total. He said there was a lot of evidence presented and the Board needed to consider it all, but there were two questions that needed to be decided. One was what was the correct classification of the use that was proposed; there were differing positions on that between staff, the Applicant and commenters. If the Board found this was a use that was allowed in this area, then the next step was the Board had to analyze the findings for the Special Use Permit, which included consistency with the Master Plan and the Area Plan. If the Board's answer to either one of those was no, then the Board could not grant the Permit, or at least portions of the Permit the Board did not believe fit under the umbrella. If the answer was yes to both of those, then the Board could grant the Permit. The evidence had to be substantial, which was defined as what a reasonable mind would tend to accept as adequate.

Member Lawrence said he did not have concerns with the traffic, because that area had always been pretty busy. He said there were Area Plans put together by the public, the communities and agencies to do the will of the people, the homeowners and the public for the benefit of those communities and those who lived in them. He did not think this project in whole fit that. He had no problem with a nursery, trees, fountains, a little bit of water, and plants, but when it came to equipment operations, moving rocks, 50 bins, building bridges and making improvements necessary to support and construct this operation, he thought that went beyond the intent of the South Valleys Area Plan. He had no problem supporting staff's determination with the revision in the application as far as the wholesale nursery, but not an operation with trucks, rocks and movement of those types of materials.

Member Hill said she concurred and she could support staff's motion, but not the rest of the uses that were inconsistent with the South Valleys Area Plan.

Member Thomas said he understood the business model; it made sense with a nursery and ground cover. However, he did not think this was the appropriate place for a rock operation. He concurred with the issues regarding the flood plain, the noise and safety for the children. He also had a concern regarding approving all or nothing; there needed to be some give and take.

Member Stanley stated it sounded like the Board was in concurrence that two of the proposed uses by definition of the Plans did not fit and did not meet the requirements. He said the only one that did was the nursery operation. He said he was also well aware of the horses being on the road, the dangers of the blind curves, lack of traffic signals and the trucks that were too large to get stopped in time. He said the safety issues were sound and all the environmental issues were other reasons to support the idea that only one of the three business types fit into the Area Plan.

Chair Toulouse stated he had some written remarks from Jim Phalen and a petition that was submitted to the Board with 57 signatures in opposition to this Special Use Permit. He reminded the Board they were to decide on the wholesale nursery and not look at the other parts of this. He understood that the Applicant's representative said all or nothing, but this was what was before the Board for decision at this time.

DDA Edwards said the Applicant's position was that all of the proposed activities fit under that definition; therefore, they were seeking approval of the entire proposed project. He noted that if the Board found that it fit underneath that umbrella and the findings for the Special Use Permit were met, the Board would be empowered to approve the Special Use Permit.

Chair Toulouse stated that since this was an all or nothing proposal, with all of the information they received today and all the information that was presented by staff, he would have to deny the entire project.

Member Stanley asked if the Board could address staff's proposal, suggestions and conditions. DDA Edwards stated the Board could.

Chair Toulouse called for a motion.

Member Stanley moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment partially approve, with the conditions of approval included as Exhibit A with the additional condition 1T regarding water rights to this matter, Special Use Permit Case Number WSUP17-0014 for Gail Willey. This includes allowing for the wholesale nursery portion of the request, but NOT allowing the Construction Sales and Services use type, nor the Colorock operations (Wholesaling, Storage and Distribution – Heavy use type). With this modification to the application and partial approval, he could make all five findings in accordance with Washoe County Code Section 110.810.30 and the two required findings from the South Valleys Area Plan.

Chair Toulouse stated if the Board approved the project with this motion, the Applicant's interpretation was that it would include all of their operations. DDA Edwards stated the Applicant's interpretation of the applicable Code provisions was that it would include all of the facets of the proposed operation. He said what he heard from the motion maker was that his intent was to make a motion consistent with staff's position, which was all of the proposed activities did not fit underneath the applicable Code provisions, except for the nursery component.

On call for a second, Member Hill seconded the motion, which carried 4-1 with Chair Toulouse voting no.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the South Valleys Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for Nursery Sales - Wholesale, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.
6. Character Statement. The community character as described in the South Valleys Area Plan Character Statement can be adequately conserved through mitigation of any identified potential negative impacts.
7. Air Quality. No significant degradation of air quality will occur as a result of the permit.

E. Administrative Permit Case Number WADMIN17-0008 (Butler Residence) – For possible action, hearing, and discussion to provisionally approve the temporary use of a travel trailer as living quarters for the Care of the Infirm. Washoe County Code Chapter 110 (Development Code) permits caregivers, specifically, to live in a travel trailer or recreational vehicle while caring for an infirm resident of an existing residential dwelling unit on the parcel. This permit would allow the person needing care, rather than the person providing the care, to live in a travel trailer on the subject parcel with the dwelling unit occupied by the person providing the care. If approved, this permit would not become affective unless and until the Washoe County Board of County Commissioners adopts Development Code Amendment Case number WDCA17-0004, *Temporary Care of the Infirm*, allowing an infirm person to live in a travel trailer or recreational vehicle, while the care giver lives in the existing residential dwelling unit on the parcel.

- Applicant: Gary L. and Pamela S. Butler
- Property Owner: Gary L. and Pamela S. Butler
- Location: 17380 Cold Springs Drive

- Assessor's Parcel Number: 087-081-02
- Parcel Size: ±0.35 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Cold Springs
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 310, Temporary Uses and Structures
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 21, T21N, R18E, MDM, Washoe County, NV
- Staff: Eva M. Krause, AICP, Planner
- Phone: 775.328.3628
- Email: ekrause@washoecounty.us

Chair Toulouse opened the public hearing. Eva Krause, Planner, presented the Staff Report. Chair Toulouse opened up questions to the Board. Hearing none, Chair Toulouse called the Applicant forward. The Applicant did not have a presentation.

Chair Toulouse called for public comment. Hearing none, Chair Toulouse closed public comment and brought discussion to the Board. Member Lawrence and Member Hill stated they agreed with the project.

Chair Toulouse called for a motion.

Member Thomas moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment provisionally approve the temporary use of a travel trailer by the infirmed person as living quarters for the Care of the Infirm, with conditions contained in Exhibit A to the staff report, Administrative Permit Case Number WADMIN17-0008 for Butler's, having made all five findings in accordance with Washoe County Development Code Section 110.808.25; listed below. The provisional approval shall not become final and effective unless and until the Washoe County Board of County Commissioners adopts Development Code Amendment Case Number WDCA17-0004 Temporary Care of the Infirm, allowing the infirmed person to live in a travel trailer or recreational vehicle while the care giver lives in the existing residential dwelling unit. Should Development Code Amendment WDCA17-0004 not be adopted, the approval of WADMIN17-0008 shall be null and void. Member Stanley seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Cold Springs Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven.
3. Site Suitability. That the site is physically suitable for temporary occupancy of a travel trailer for the care of the infirm, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

10. Chair and Board Items

A. Future Agenda Items

There was no request to place any items on future agendas.

***B. Requests for Information from Staff**

Member Stanley asked if there was a timeframe for the review of Southeast Truckee Meadows Regional Area Plan. Mr. Webb stated the Regional Plan was undergoing a major update and that update was set to be done in late spring or early summer of 2018. At that time, they would be required to bring the County's Master Plan into conformance with that Regional Plan. He anticipated they would start that effort by looking at the major components Volume 1 of the Plan first and then cascade down to the Area Plans after that. He said it would be approximately one year or more before they launched the efforts of the Area Plan.

11. Director's and Legal Counsel's Items

***A. Report on Previous Board of Adjustment Items**

Mr. Webb stated the Staff Report template format had been commented on by the Board and those would be incorporated and brought back for the Board at the December meeting.

***B. Legal Information and Updates**

DDA Edwards stated he did not have any legal updates.

12. Public Comment

Chair Toulouse opened public comment. Hearing none, he closed public comment.

Chair Toulouse asked Mr. Webb if this would be his last meeting. Mr. Webb stated it would be. Chair Toulouse commended Mr. Webb on all of his work and wished him the very best. Mr. Webb stated he was not going anywhere, they were just rearranging his duties.


13. Adjournment

The meeting adjourned at 6:22 p.m.

Respectfully submitted,

Jaime Deller, Independent Contractor

Approved by Board in session on December 7, 2017



Carl R. Webb Jr.
Secretary to the Board of Adjustment