



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Rob Pierce, Vice Chair
Don Christensen
Kathie Julian
Brad Stanley

Thursday, April 6, 2023

1:30 p.m.

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

Secretary

Trevor Lloyd

and available via
Zoom Webinar

1. Determination of Quorum

Chair Thomas called the meeting to order at 1:30 p.m. The following members and staff were present:

Members Present: Clay Thomas, Chair
Rob Pierce, Vice-Chair
Don Christensen
Kathie Julian
Brad Stanley

Members Absent: None

Staff Present: Chris Bronczyk, Senior Planner, Planning and Building Division
Courtney Weiche, Senior Planner, Planning and Building Division
Roger Pelham, Sr. Planner, Planning and Building Division
Michael Large, Deputy District Attorney, District Attorney's Office
Adriana Albarran, Recording Secretary, Planning and Building Division
Brandon Roman, Recording Secretary, Planning and Building Division

2. Pledge of Allegiance

Chair Thomas led the pledge of allegiance.

3. Ethics Law Announcement

Deputy District Attorney Large recited the Ethics Law standards.

4. Appeal Procedure

Roger Pelham recited the appeal procedure for items heard before the Board of Adjustment.

5. Public Comment

Garrett Hall (Zoom): "My wife and I live at 120 Mule Deer Drive. We don't have an issue with this construction project as a whole. But I wanted to make sure that the easement in front of our house, which is also a driveway, isn't used to stage any of the construction equipment for the project. It would be very invasive if dump trucks were parked in front of our house for months or years as the project went on. Can the permit specify that this area cannot be used for any other construction activities?"

Pete Pensears (Zoom): "I am a resident of Timberline estates and I drive by the applicants job site on a daily basis and I have noticed a few things I'd like to make comments on. I'm a licensed civil engineer in the State of Nevada and I noticed that the project calls for grading of a 30% slope. I see no call outs for plans or for retaining walls, flow drainage features, and those would include features such as Tyvek soil nailing and other forms of retaining wall construction as well as drainage features. The plan submitted on the online package contains what I would consider to be a cover sheet for a complete set of plans that my shop delivers. The lack of engineering plans and specifications for the driveway and retaining walls is a great concern. The project has been undergoing grading for a period of about two years without a permit. And during that period of time, there were no best management practices in place. I didn't see any straw wattles, silt fences, or drainage features until recently. What I saw was they have an approximately 10-foot-high embankment of soil from the original grading activities. And there was a single course of straw wattles anchored to the toe of that slope, and nothing else. In my opinion, as a civil engineer, I think that's totally inadequate for the rainfall events that we've had here recently. We should be seeing silt fences and sandbags to control site drainage. Secondly, on this feature, there is a three-year period of time for which the project is to be completed. I'm wondering when the three-year period begins and ends. Does the County require a check on the applicant surface water rights for building a pond at the downhill side of a slope? It calls for diverting and importing water which may affect downstream water diverters and license appropriators. Furthermore, this might make my first comment mute; there is inadequate flow to maintain it year-round. After June, the pond area is totally dry. At Timberline estates, lot owners do not have ground water.

There were no further requests for public comment. Chair Thomas closed the public comment period.

6. Approval of the April 6, 2023 Agenda

Chair Thomas advised that item 8A WVIO-PLA22-0250 (Lipizzan Ln) had been withdrawn and would not be heard by the Board. Additionally, item 8E would be moved to the top of the public hearing items.

In accordance with the Open Meeting Law, Member Stanley moved to approve the April 6, 2023 agenda with the changes noted by Chair Thomas. Member Pierce seconded the motion which carried unanimously.

7. Approval of the March 9, 2023 Draft Minutes

Member Pierce moved to approve the minutes of March 9, 2023 as written. Member Julian seconded the motion which carried unanimously.

8. Public Hearing Items

A. Case Number WVIO-PLA22-0250 (445 Lipizzan Ln) [For Possible Action] – For possible action, hearing, and discussion to affirm, modify, reverse, or remand an Administrative Hearing Officer's determination that no violation of Article 414, Noise and Lighting, exists at 445 Lipizzan Lane.

- Appellant / Complainant: Eugene Corl

- Owner / Defendant: Brad Schreiber
- Location: 445 Lipizzan Lane
- APN: 078-101-25
- Parcel Size: ± 3 acres
- Master Plan: Rural Residential
- Regulatory Zone: Low Density Rural
- Area Plan: North Valleys
- Development Code: Article 404, Noise and Lighting
- Commission District: 5 – Commissioner Herman
- Staff: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3622
- Email: rpelham@washoecounty.gov

Item was withdrawn.

E. Special Use Permit Case Number WSUP23-0007 (14025 Red Rock Road) [For Possible Action] – For hearing, discussion, and possible action to approve a special use permit for major grading of 11,303 cubic yards of cut material and 10,975 cubic yards of fill material, disturbing a total of 179,744 square feet (4.12 acres) to provide for driveway access and building pads for a single-family dwelling and accessory structures. The applicant is also seeking to vary the following standards from Article 438; Section 110.438.45(c).

- Applicant/Property Owner: Elaine Yeoman
- Location: 14025 Red Rock Road
- APN: 079-351-01
- Parcel Size: 46.7 acres
- Master Plan: Rural
- Regulatory Zone: General Rural
- Area Plan: North Valleys
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Staff: Courtney Weiche, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3608
- Email: cweiche@washoecounty.gov

Senior Planner Weiche provided a presentation. Derek Wilson, Applicant Representative, provided a presentation.

Member Julian said on page 14, it says the developer shall provide pre-treatment. How is that in the conditions of approval? How would that be done? Pre-treatment for petrochemicals and silt for storm drain. I would like to thank Staff for including photos in this, but I would also request that the reference to the Washoe-Storey Conservation District should be included in the chart of people that were consulted, even though I know you're not obligated to act on their recommendations.

Walter West, Washoe County Engineering, said, I think that condition was probably inadvertently added. It's typically added in a subdivision environment when you have catch basins, curb, and gutters. You could probably strike that if you'd like to.

There were no requests for public comment. Chair Thomas closed the public comment period.

Member Stanley said I was very pleased to see that both Staff and the applicant were sensitive to the compliance for the area plan. It's nice to see the sensitivity to the ridge line issue, even though it might not have broken code it is a good neighborly kind of thing. It's a very nice staff report packet, and I support it.

MOTION: Member Julian 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 conditions Special Use Permit Case Number WSUP23-0007 for Elaine Yeoman, with the conditions included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Code Section 110.810.30:

- (a) **Consistency**. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the North Valleys Area Plan;
- (b) **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;
- (c) **Site Suitability**. That the site is physically suitable for major grading, and for the intensity of such a development;
- (d) **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;
- (e) **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.

Member Pierce seconded the motion which carried unanimously.

B. Special Use Permit Case Number WSUP23-0004 (Barrett Grading) [For Possible Action]
– For hearing, discussion, and possible action to approve a special use permit for a driveway traversing 30% slopes. The proposed grading includes a disturbance area of 13,675 sf, and volumes include 741 cy of cut and 741 cy of fill on slopes of 15% or greater.

- Applicant/Property Owner: Sean Barrett
- Location: 16265 N Timberline Drive
- APN: 049-222-06
- Parcel Size: 2.71 acres
- Master Plan: Rural (R); Suburban Residential (SR)
- Regulatory Zone: 58% Low Density Suburban (LDS); 42% General Rural (GR)
- Area Plan: Forest
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 2 – Commissioner Clark
- Staff: Chris Bronczyk, Senior Planner
Washoe County Community Services Department
Planning and Building

- Phone: 775.328.3612
- Email: cbronczyk@washoecounty.gov

Senior Planner Bronczyk provided a presentation. Applicant, Sean Barrett provided a presentation.

Member Stanley said, thank you for explaining the previous grading permit. As you and I previously spoke on the phone, I was wondering about the construction gear so thank you for that. Another question was raised about the pond and the water flow. Is that part of this permit? Or is that covered under some other division? Or what would you like to say about that pond area and the water flow? Sr. Planner Bronczyk said the pond as a whole was part of this request. It was sent to the state water agency for review. They basically said, as of right now, there's no current water rights on the property. The applicants are going to need to go to TMWA and provide proof of water rights. They did provide a brief summary of catching precipitation. Our state water agencies provided no specific conditions. Member Stanley said to my understanding, to have that pond, they'll need to go back through the process with the water rights agencies? Sr. Planner Bronczyk said there's a state permit process related to diverting channels, using surface water, or catching precipitation.

Member Julian said reading the email from Steve Shell from the State Department, it says that they will need to go through the state, and it does not allow for the capture of drainage or waters, but that is what's in the application. They are saying even though you have a condition in there; it states that TMWA will need to be permitting the use of their water. The applicant has stated that they will be relying upon the drainage, but it seems to me, from reading what the State Water Resources Division said that they would definitely need a permit. The drainage, the collection of water through drainage or rainwaters, is problematic. At what point will they have to go back to the state on this? Will they need to go to the state for this? Sr. Planner Bronczyk said they do need to go to the state. I don't know the state water process and associated permitting process. The inclusion of the pond was based on the grading. But this was sent to both our water agency in-house of Washoe County and the state. Based on them, they do need to still go through the state permitting process, regardless of if it's meant to do drainage, or if they're catching precipitation, etc., it will be required. Member Julian asked at what point that would be. Are we able to find out?

Roger Pelman, Senior Planner, said we have a multi-step process here. He's asking for permission to have this pond. What we're looking at today is, can we dig the dirt out to make the hole? And presumably, the answer that has been suggested is yes, we probably can. However, because you're putting conditions of approval on it, we're going to have a condition that we're not going to finalize that permit until all of the subsequent approvals are also demonstrated to have been granted. So if we get to the end, and he does not have that other approval granted, we won't have a pond. Member Julian said I did not see a condition in there regarding the state requirements for permitting. I did see TMWA, but not the state in the condition. Is that an example of where one might wish to add a reference to the state permit? Sr. Planner Bronczyk said we could certainly do so.

Chair Thomas said thank you for clarifying that. Because I tend to agree, I think they're asking us for permission to dig a hole that they don't have permission to put water in. There is a condition on page 13 that addresses the water rights, and they would have to work with TMWA and get the water rights if they wanted to fill it.

Member Stanley asked is there a scenario under which runoff water isn't used; their contract with TMWA says you can have enough water to fill that pond? Sr. Planner Bronczyk said I'm sure there's there is. I've seen it before. But again, this will go through a permitting process associated

with water rights. Member Stanley asked if that would tend to obviate the state under that if someone made provisions. Sr. Planner Bronczyk said, unfortunately, I don't know the answer to that because I'm not well versed in water rights. Chair Thomas said it's not in his purview to address that. That would be an issue that would have to be addressed through those agencies.

Member Julian said I did go out to look at the site, and I did notice there are residents right above it, and right in front of the project site. I would request that we consider putting in the language that says no mobilization of equipment before 7 a.m., including the mobilization of the equipment, simply because it is so close to residents. Sr. Planner Bronczyk said we currently have construction hours. I'm happy to include the mobilization language as well to capture that.

Mr. Barrett thanked the Board.

There were no requests for public comment. Chair Thomas closed the public comment period.

Member Julian said I would support this as long as we can add a condition about consulting TMWA; they also consult the Nevada State Water Resources Division, as appropriate. DDA Large said we could include a line that says that the applicant shall coordinate with the State of Nevada Water Rights staff to ensure the adequacy of water rights before granting a building permit. Member Julian said I'm not sure if it's the term rights as much as it's the permit because it clearly says if you're relying upon surface water draining into it, you need to have that permitted. DDA Large said we coordinate TMWA and the state of Nevada to ensure the adequacy of water rights to support the resident's landscaping and proposed pond, including any necessary permits.

Member Stanley said I would agree with the idea of both mobilization and ensuring that the State Water agency is on Board. Some of the feedback we've gotten emails and public comment on have asked those two specific questions. I'm having trouble finding where we modify conditions. DDA Large said we modified 1.d, the second (d) because I noticed on the staff report we have two letter (d) in there, but it would be, 'construction activities shall be limited to hours between 7 a.m. to 7 p.m.' We can modify that to add, 'construction mobilization may not begin before 7 a.m.' And the state water condition would be condition 6.a. Nevada Division of Water Resources.

MOTION: Member Julian 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 conditions special use permit case number WSUP23-0004 for Sean Barrett with the conditions included as Exhibit A to this matter and to include the modifications of 1.d. to prohibit mobilization before 7 a.m. and condition, 6.a., consultation with Nevada Division of Water Resources regarding water rights and permitting prior to, having made all five findings in accordance with Washoe County, code section 110.810.30 and Forest Area Plan Policy F.2.13 And F.12.3.

- (a) **Consistency**. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Forest Area Plan;
- (b) **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;
- (c) **Site Suitability**. That the site is physically suitable for major grading, and for the intensity of such a development;
- (d) **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;

- (e) **Effect on a Military Installation.** Issuance of the permit will not have a detrimental
- (f) **Forest Area Plan Policy F.2.13:** The approval of all special use permits and administrative permits must include a finding that the community character as described in the Character Statement can be adequately conserved through mitigation of any identified potential negative impacts.
- (g) **Forest Area Plan Policy F.12.3:** The granting of special use permits in the Forest planning area must be accompanied by a finding that no significant degradation of air quality will occur as a result of the permit. As necessary, conditions may be placed on special use permits to ensure no significant degradation of air quality will occur. The Department of Community Development will seek the advice and input of the Air Quality Division of the Department of Health in the implementation of this policy.

Member Stanley seconded the motion which carried unanimously in favor.

C. Special Use Permit Case Number WSUP23-0005 (1955 Piute Creek Grading) [For Possible Action] – For hearing, discussion, and possible action to approve a special use permit for major grading of 1,194 cubic yards of cut material and 4,218 cubic yards of fill material, disturbing a total of 1.01 acres to provide for driveway access to three future parcels in association with WTDLP22-0002. The applicant is also seeking to vary the following standards from Article 438; Section 110.438.45(a).

- Applicant/Property Owner: Richard & Corinne Sumner
- Location: 1955 Piute Creek
- APN: 077-310-14
- Parcel Size: 136.11 acres
- Master Plan: Rural
- Regulatory Zone: General Rural Agriculture
- Area Plan: Warm Springs
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Staff: Courtney Weiche, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3608
- Email: cweiche@washoecounty.gov

Senior Planner Weiche provided a presentation. Applicant Rick Sumner was available for questions. Mark Johnson, the applicant representative, was available via Zoom.

There were no requests for public comment. Chair Thomas closed the public comment period.

Member Stanley said it looks like a nice, laid-out staff report. Well designed. I see nothing to prevent voting yes on this application.

Member Julian said in some of the other applications, we have a discussion of revegetation, but in this application, I didn't see the same coverage on the vegetation of the disturbed, noxious weeds. I was wondering why that wasn't the case. Sr. Planner Weiche said I see on 2.a, under Washoe County Engineering and capital projects, I believe those are typically conditions provided by engineering. Mr. West, Washoe County Senior Engineer, said when we have an acre or more disturbance, they require to get a construction stormwater permit, which is a process. There's an NOI, notice of intent, obtained from the state. In order to close that NOI, they have to demonstrate

that they have attained 70% protection and stabilization of the disturbed areas, so that's through vegetative measures.

Member Julian said I'm looking at, 'all disturbed areas left uncovered for more than 30 days shall be treated with dust palliative, disturbed areas left undeveloped for more than 45 days shall be revegetated.' And this is disturbing four acres. So why wouldn't you have that kind of language for this? Mr. West said I think the 30 Day and the 45, that's if they leave construction and stand down for a while, and then they have to typically put down at dusk palliative, which is soil amendment keeps the soil down. What they are ultimately looking for is a vegetative cover. The state requires the vegetation to be established and kept stable. Member Julian said I'm looking across applications. You have the re-vegetative language in one application but not in another. I'm curious, why? Mr. West asked if you were talking about the previous case. That's because it's only a requirement as you get over one acre of disturbance. Mr. West said I think the project we're talking about is four acres. Member Julian said both examples I'm looking at are over one acre. And this one has language, and this one does not, so I questioned that. Mr. West said I don't know why Staff opted not to include that. This project is over an acre, so we should have it there.

Mr. Pelham said those conditions from Engineering staff are a large extent, just a sort of courtesy, letting folks know what will be required. But if I can refer to the grading code article 438, particularly .70, erosion control, those standards you're discussing are required. For example, landscaping production, slopes treated after 30 days, revegetated after 90, any disturbance greater than one acre requires the NDP permit. So that is an absolute requirement of code. If you want to include that condition as an extra notification to the applicant, we can certainly add that, but the requirements do exist in the code. And typically speaking, we don't duplicate code in the conditions. Member Julian said I would argue it's good practice to include such language because it helps the applicant and public better understand the mitigation efforts that will take place. Mr. Pelham said, and again, often we do that really as a courtesy as a notification. But the requirement exists whether or not it's in those conditions.

Mr. Stanley asked for clarification. Is 08-7, what's commonly known as the SWPP permit?

Mr. West's said SWPP is a stormwater permit prevention plan. A plan that they show how they're going to control sediment from exiting a property.

Chair Thomas said I know when we talk about Washoe County code, or state statute, there is a litany of codes and statutes that are out there that cover volumes. And in so doing, is it even feasible to put every condition that could apply to a project here, or do these conditions more or less apply to a general concept to follow? Beyond that the underlying code they still have to follow or be in line with actual approved regulatory code statutes.

Mr. Pelham said yes, thank you for that question. I think you're right on; when we have conditions of approval attached to a special use permit, those conditions should be crafted to address the unique characteristics of this particular development or this particular request. The underlying assumption is all generally applicable code provisions have to be met. In this case, the erosion control is 110.438.70. They have to do that there, and it will be enforced. Occasionally, it is of benefit to let them know ahead of the some particularly important ones that are particularly applicable to this situation on this permit. That's why we will sometimes have those in the conditions of approval. The underlying concept is that the general code requirements always apply. Chair Thomas said thank you for educating me on that. That's good to know. I'll keep that in mind for future reference.

MOTION: Member Pierce 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 conditions Special Use Permit Case Number WSUP23-0005 for Richard & Corinne Sumner, with the conditions

included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Code Section 110.810.30:

- (a) **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;
- (b) **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;
- (c) **Site Suitability**. That the site is physically suitable for major grading, and for the intensity of such a development;
- (d) **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;
- (e) **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.

Member Stanley seconded the motion which carried unanimously.

D. Special Use Permit Case Number WSUP23-0006 (53 Mule Deer Court) [For Possible Action] – For hearing, discussion, and possible action to approve a special use permit for major grading and addressing unpermitted grading on the subject property. The request includes 4,677 cy of cut and 3,862 cy of fill over an area of 44,033 sf on slopes greater than 15%. The major grading also includes 815 cy of export. The unpermitted grading consists of 12,000 cy of imported fill to the subject parcel. Additionally, the applicants are asking to vary section 110.438.45(c) of the Washoe County Code to allow finish grades to vary more than 10 feet from the natural slope.

- Applicant/Property Owner: Brian Graham and Morgan Sutton
- Location: 53 Mule Deer Court
- APN: 038-730-39
- Parcel Size: 5.69 acres
- Master Plan: Rural (R) and Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS) 18%; General Rural (GR) 82%
- Area Plan: Verdi
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Staff: Chris Bronczyk, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3612
- Email: cbronczyk@washoecounty.gov

Senior Planner Bronczyk provided a presentation. Applicant Brian Graham was available for questions.

Member Julian asked why the various complaints have dragged on this long and created animosity within the community for years, according to some of the comments. What caused those delays? Sr. Planner Bronczyk said I think Mr. Joseph Bernardo, the original owner, did not comply.

Admin enforcement took place in 2016, right at the start of a transition between permitting software. I understand that certain things did fall through the cracks as part of that transition. However, everything did pick up again once additional complaints did come in. Whether there were lagging or enforcement issues, that's a different area of CSD that would control that and go out and enforce these. That's not something I'm well versed in, with how our code enforcement operates and enforces these things. Member Julian said can you please elaborate on why it will take four years and why this could not be done within two years? Sr. Planner Bronczyk said that's a question for the applicant.

Member Stanley said thank you for bringing up the area plan. Working within that was always a big deal. The code enforcement, the dumping, and what's under the ground were somethings that you and I spoke about when I called you. You gave background information and assistance on that. The other area that was mentioned on a phone call, and certainly in a number of letters, was the area of access via the current infrastructure, the road, which appears to be a private road. The information you gave me was that's not within our purview to determine whether or not it's a private or public road. We're talking about a grading permit with certain conditions. Is that essentially correct? Can you elaborate a little bit on the ownership of the private roads issue? Sr. Planner Bronczyk said that's mostly correct. As part of the construction and part of the request, there's going to be equipment that needs to access the site. However, Washoe County cannot condition private roadways. We don't have any stake within these roadways. So it's effectively up to the HOA, or the governing body of that private road to move forward. Member Stanley said If something went south on that issue, if that particular issue was not workable, does the applicant have any other options? Is access unpermitted? Would they not be able to get to their property? How would that work? DDA Large said that's not before this agency to decide. There are limitations in the law in terms of a landlocked parcel and not allowing access. I have identified on this map in regard to what easements or roadways are appropriate and what the limitations are on this specific parcel. Typically, it's a good rule of thumb to say; you cannot prevent an owner from reaching their property. Whether or not that owner will have to compensate for the use of an easement or those types of things, that's another matter for another day in a different board and maybe a court of law. A good rule of thumb is that you can't make a parcel inaccessible.

Member Julian said one of the findings we have to find is the issuance of the permit will not be significantly detrimental to the property or improvements of adjacent properties. If the public is saying that the plying of these roads by multiple large trucks for four years will be injurious to their property, which is their easement, I fail to see where that doesn't play in here. And where that is under the purview of this finding. DDA Large said the question I was speaking to was whether or not they had access to the parcel, not in regard to the condition of the roadway. Now the condition of the roadway, there are conditions this Board can put in place in regard to whether or not injury incurred into the road needs to be remediated or leave that to the HOA to go after the people depending on how injurious it is. A lot of what you're getting is speculation on what is going to happen potentially rather than based on what actually happens. So that's difficult. Member Julian said to follow up on that, though one of the conditions of approval is a grading bond for the disturbed area. I think that's condition 2.f. Is there scope for this Board to create some provision for expenses if the vehicles destroy the road? DDA Large said regarding this Board, no. I would leave the bonding issues to engineering. It's enough that we have the conditioning in there to ensure that the bulk of the grading work is done. That's what the bond is there for. Member Julian said right, so it doesn't address any possible injury to the adjacent landowners. DDA Large said no, it does not.

Member Julian said there is a reference in one of the letters to toxic materials and whether there is potential for some of the illegal dumpings that had been done for years. Does the staff have any idea of whether there are potentially some toxic substances there that would be of concern? Or is that a question more for the applicants? Sr. Planner Bronczyk said that question did come before Staff. I did consult the health district as part of these public comments. The reports

associated with the dumping were largely for grading material and debris. I'm trying to be careful not to speak directly for our health district. But overall, they do not have a formal complaint of any sort of biohazardous or hazardous materials being dumped on site, and it's largely debris and grading import/export. And they do not regulate the import or export of material.

Member Stanley said can you go over the four years and how that'd be used. I think there was a question here that they would be having construction gear on the road for over four years. But that didn't seem to be what you were saying. That is the window to get things approved and then construction. Sr. Planner Bronczyk said there's a window associated with how these take place. So whether they have a two-year or four-year approval, that's when the special use permit they asked for is valid. However, they still have to submit for building permits. In this case, a grading permit is associated with what they want to do. That grading permit must substantially conform to what the Board chooses to do with the submitted SUP. When that permit gets issued, they have 18 months to complete the work. That should be noted that they do have the option to apply for extensions through our building division. Each extension is an additional 18 months, but their window of opportunity to do the grading that takes place has to be within the time allowance of the building permit that has been issued.

Member Julian said I trust the public would be able to make comments, should they ask for an extension? Or is that something that's done internally? Sr. Planner Bronczyk said that's something that's done through our building division. DDA Large said that is not a public hearing. There would not be public comment on an extension of a grading permit.

Chair Thomas said I also believe that if whatever the timeframe is, let's just say it was two years, if the project is not done within two years, what we've seen before is they come back to the Board of Adjustment for an additional extension. Is that part of the process? DDA Large said that's what we've done in the past with a special use permit. Chair Thomas said when they came back to the Board of Adjustment, there would still be public comment time because it'd be presented again before this Board. DDA Large confirmed.

Member Pierce asked if the current applicant has owned the property for a long time? Sr. Planner Bronczyk said I believe they bought it in 2022. Much of the unpermitted grading that took place was from the previous owner. Member Pierce said am I understanding this correctly, that they want to clean up what the previous owner has done, trying to make it right? Sr. Planner Bronczyk said that is correct. The request is to address the unpermitted grading and grade a pad and driveway to accommodate a single-family residence for them. Member Pierce said but that would come after the clean-up. So they've had to address what the previous owner has done in order to do what they want. Sr. Planner Bronczyk said that was correct.

Brian Graham, Applicant Representative, was available to answer questions.

Member Christensen asked how long have you owned this property. Mr. Graham said we purchased it in the spring of 2022.

Member Christensen said any improvement to the impact of existing grading and overall condition of the property, we certainly approved that sort of thing. It's definitely an improvement. What's the long-term game plan here? What do you plan on doing with this property? Mr. Graham said My wife and I purchased this property to build a single-family residence. I've worked for a local contractor for two decades. So just trying to take my opportunity and build a house for my family.

Member Julian said you know about the number of letters from your community. Have you had discussions with them about your vision of how this thing is going to roll out, the vehicle traffic, mobilization, and possibly trucks being parked on other people's easements? Mr. Graham said I have read the complaints. And all I can say to date is I've only spoken with neighbors that have

come by while I've been doing work on weekends. I have attempted to clean up some of the trash and gone out there with a dump trailer and get what I can by hand. I have spoken with those neighbors. I think the response has been that everybody's happy to see something positive happening with the property. Regarding the complaints, I saw in emails about the permit application. I will certainly document all the conditions of the roadway before we started any construction, we would limit equipment size, specifically trucks, so we're not putting any unneeded stress on the roads. Those roadways are very narrow, and nothing would be parked on the roadway. Everything would be kept in the parcel if anything were to stay overnight.

Member Pierce said that was my concern. Storage of vehicles or things like that, that would all be on your property. Mr. Graham said absolutely. Any trucks would likely not be kept anywhere in the area overnight and any construction equipment would be kept within the property.

Member Pierce said would you be okay no mobilization until 7 a.m. Mr. Graham said absolutely.

Member Stanley said people were concerned about the four years. What is your anticipated timeline to remediate the current problem and do your grading? Mr. Graham said with some of the remediations that have to happen on-site, there's an existing foundation from a previous project, and there's obviously a lot of debris in there that has to be sorted through. We would like to explore a septic system and possibly get a special inspection on with Washoe County Health. I think the extended duration would probably be six to eight months for the grading work until everything is complete. Member Stanley asked if it wouldn't be consistent for six to eight months. Mr. Graham said no, so there would be on-site work taking place. We would build a stockpile of refuse that needs to be taken to the landfill. When that gets big enough, we can schedule three or four trucks to come for a couple of days. Eight hundred cubic yards export is on the order of 80 to 100 truckloads total. And getting 20 or 30 in a day isn't unreasonable. I think we probably scale it down because of the residential access. But we certainly wouldn't expect six to eight months of trucks running on the roads. Member Stanley said on the upside, maybe 100 truckloads? Mr. Graham said that was correct. Member Stanley said the second question I had was regarding the intention to recover and restore the septic system rather than destroy it. Mr. Graham said I met with two Washoe County Health officials to explore potentially using the existing permitted septic system. It was explained to me that we would need to locate it. Somebody would have to come to do an inspection on the integrity of the actual septic tank and ensure that the leach field hasn't been damaged. And through that special inspection, we find out that it's something we can try to utilize or not, and if not, it would be demolished.

Member Pierce said I just want to say thank you for cleaning it up and trying to address the neighbors' concerns.

Public Comment:

Larry T. Gilbertson (Chambers): "I live at 150 Mule Deer Drive. And I don't know the applicants, but I would like to welcome them to the neighborhood. I have two lots between my property and this property in question. Our neighborhood is almost completely filled. It's only like 30 properties. And most of the properties are built on. If I'm not mistaken, there are two lots across the street from the one in question. And I'd also like to point out that two lots down from this lot in question, there was a new house built in the last two years, including heavy equipment being hauled in and cement trucks. And part of the reason I know about the heavy equipment is I live on the corner of Mule Deer Court and Mule Deer Drive. Our street is so narrow because it's a private road that they have to back big equipment in. So they pull in front of my house, go around the corner, and back down. They wouldn't be able to turn around. And the lot in question drops off pretty steeply from the road down to their property. And it's probably eight or 10 feet straight down. And so, as I see it, any fill added to it would help stabilize our private road and be a good addition to the property. I noticed the Board was concerned about the toxic weeds. And one of the things we've had on that property over the past is scotch thistle invading pretty badly, and I dug it out myself

quite a few times. Because once that stuff blooms, it goes everywhere. And so I would look forward to seeing that property cleaned up and developed. Any additional fill would help stabilize the road. I welcome the development of that property in our neighborhood. I'm speaking in support of it."

Charles A. Lane (Chambers): "Thanks for the opportunity to speak. My comments will be brief but sincere. I live at 33 Mule Deer Court. My house is one of the two closest houses to the subject property. Mr. Graham's property, in its current configuration, is a really ugly eyesore. Mr. Graham's proposal will be a substantial improvement to that property. The grading he's proposing and the 4,100 square-foot house he's proposing to build will enhance the neighborhood and property values and contribute to the neighborhood's overall nice appearance. Again, my house is one of the two closest houses to Mr. Graham's property. My wife and I totally support Mr. Graham's proposal. We have absolutely no concerns at all regarding dust, noise, or traffic. All that traffic's going past right in front of my house. We have absolutely no concerns. These will be minimal. They will be temporary. And besides, there are a number of mitigation measures in place that are required by federal, state, and local regulations. My wife and I strongly encourage the Board to approve Mr. Graham's special use permit. Mr. Graham, welcome to the neighborhood. Thank you"

Chris Lyngstad (Zoom): "First, I'd like to say that Charles A. Lane and Joseph Bernardo owning 53 Mule Deer Court, were both presidents of the road association. And were involved with notification about the illegal dumping. The person that made public comment actually ignored the illegal dumping and he was asked to be stopped. And so these people have a vested interest in speaking as proponents of this particular SUP. Secondly, I had additional questions, and I don't know if they were asked. They skipped me over during the staff questions. I asked several questions to Chris Bronczyk, as well as the board members. If possible, I'd like those to be read to the applicant and the staff. I don't know if I have enough time to go through them here, so they were emailed and weren't addressed. Additionally, that was sent to the staff, but I didn't hear those questions responded to, so I'm not sure the format or policy of why or why not. In general, I would also like to say that the dumping occurred from 2014 to 2021. Washoe County enforcement was notified, and issued a stop-work order. Unfortunately, their own stop-work order was not followed. And therefore, the dumping continued for many years till 2021 when multiple complaints were processed by Washoe County enforcement, and subsequently, a notice of violation was issued on that property. These dump trucks, if 12,000 cubic yards of fill were delivered to that particular property, we're talking about anywhere from 1200 to 1500 trucks that pass over this road. A 10-yard dump truck weighs 56,000 pounds full. I find it hard to believe that road degradation is not something to consider when looking at this, especially for a four-year period, regardless of a window, but I don't think it's applicable. Thank you."

Elizabeth Hall (Zoom): "I live at 120 Mule Deer Drive; my husband, Garrett Hall, spoke earlier. Welcome to the new neighbors. We're on board with getting it cleaned up. We do agree and find it positive for the overall neighborhood. Our home is located on one of the main easements on the main road. I'm 31 weeks pregnant. And unfortunately for us, noise and having four years of dump trucks parked outside of our home will just be intrusive, and we've been blocked in our driveway before. So that was really our only public comment. I know there have been discussions on ensuring it all stays in the parcel. And if that's what it is, that's great. We welcome the clean-up because that's why we like the neighborhood and welcome the new neighbors."

Dave Devalk (Chambers): "I Live at 70 Mule Deer Court, which is directly across from the middle parcel there, in the curve of the cul-de-sac. I'm the current president of the Road Association, and as the current road association president, I'm well aware of all the history here. We are in strong support of this development happening. We assume and know that the construction standards are that if any debasement of the road or anything, we would expect that the contractor would put it back to the way it was before. And as long as that happens, we welcome the new neighbors, and we welcome the 4,100 square foot house."

Member Julian said I'm not at all questioning that this is good that it's being remediated. But I see this Board, one of the fundamental things this Board does is to ensure that the findings are not injurious to the community, and if there are possible impacts, that we think about how we might mitigate them. So from that perspective, I'm concerned about what we can do as a board to put in a condition that alleviates some of these concerns that are expressed by a number of people in the community who have written emails to this Board. And that would include, for instance, the vehicles parking on easements; that might include the length of time, and what I have just learned that yes, there may be only an 18-month window where they can do grading. Still, they can go back internally to the County and get that extended with no public comment and perhaps even no public information provided. So going forward, I would support a two-year SUP, and then the applicant could come back after two years and apply for an extension, which given the nature of the project, I'm sure would be looked upon favorably. So that's where I'm coming from here.

Member Pierce said I thought we addressed that. With the two years, they do have to come back to us and there will be public comment because they come to us to get the extension.

DDA Large said no, Mr. Pierce, the request, as currently drafted, is for four years. This would not come back to this Board. Member Pierce said I'm good with the four years, so I support it as written.

Chair Thomas said just a point of clarification for me, if it were to go to two years, and they still needed additional time, they would still have to return to this Board. DDA Large said they would have to file a request for an extension of the current SUP. And we've had those in the past regarding extensions of time. I would note that regarding what the applicant said, we have an 18-month period. But also, we heard a six to eight-month period, which may be why they're asking for the extended period. But that's completely within this Board's purview to say two years versus four years.

Member Stanley said Planner Bronczyk and I were on the phone going over the detailed questions that had been asked. It was narrowed down essentially to two primary questions that were within the purview of this particular special use permit. And we've addressed those two questions. So I would be in favor of this application. I'm interested to see the discussion between two and four years and the ramifications of that.

Member Julian said I believe there would be additional language regarding the mobilization of equipment before 7 a.m. as typical in applications in neighborhoods. I would urge that that condition be added.

DDA Large said I want to modify something that I said. If we look at the conditions of approval, 1.c., the initial building permit shall be issued within four years from the date of approval by Washoe County. That's the extension in terms of that. It's not the grading that needs to get done within that time. It is the building permits that need to get issued. Sr. Planner Bronczyk said DDA Large is correct. The four-year timeframe, as mentioned, is to get the conditions of approval and to be able to get a permit issued; once the permits are issued, even if it extends past that four-year, the SUP timeframe, they're now in the confines of the building permit. So they've satisfied the condition to allow this SUP to be valid and applicable. But that permit being issued is the key component.

DDA Large said what we're saying is construction is not going to be done within four years. That's just for the building permit to get issued. There is still going to be building after four years, potentially.

Member Stanley asked, please flowchart the four year period in terms of what's entailed there? What's covered?

Sr. Planner Bronczyk said the requirements for a two-year or four-year timeframe are the same. It's just the four-year time frame is giving the applicant a longer timeframe to meet all the conditions. And, as mentioned in an earlier hearing item, even though some things may not be in the conditions, there are still substantial code requirements that the applicant needs to meet.

Member Stanley said the extension is largely to go back over and vet out the unknown quality of what they're digging into. In other words, it's not as bounded as many of the projects because you don't know what you're going to find when you're doing the remediation process. Sr. Planner Bronczyk said every applicant, every proposal that comes forward with a special use permit or an admin permit or any permits the Board of Adjustment sees before them, applicants can request to amend or modify that timeframe. This applicant came forward and requested to modify that timeframe, specifically due to the amount of unpermitted grading and just being able to hopefully address that circumstance.

Member Julian said the public asked for notifications. I read that over 40 parcels were notified. Can you ensure that all the adjacent parcels were notified? Sr. Planner Bronczyk said an exhibit outlining a map of the parcels that were noticed was provided. The code requirements for special use permits are all real property within 500 feet of the subject property. I went to 600 feet and noticed 46 parcels, which does meet that standard. Member Julian said I would suggest that in the future, as was done in earlier applications, there'll be a heading and title properly on this page so that the public can see these were the parcels noticed. Because right now, it's just a map. And it's 46 parcels within 600 feet with no other descriptors on this page. If you're a member of the public looking at this document, you don't know what this means. Another concern raised by the public was the parking of vehicles on their easement. Is there any scope for a condition that relates to that? Or is that covered in other parts of the code? DDA Large said what I would suggest is in regard to the easement and whether this is a public road, he said it was a private road, whether or not parking is permitted on that road and whether that's illegal or legal that's between the property owner in terms of that easement. It is perfectly within this Board's purview to say that all equipment will be parked on-site, and then they get a condition of approval.

Member Pierce said I asked the applicant that specific question, and he specifically said overnight equipment would be on his property. He's already committed to that. I don't think we need to condition. Member Stanley said in support of that. The concern is trips. Having equipment on site will reduce the number of trips.

Chair Thomas said I know Mr. Lyngstead asked if we were in possession of his documentation. Yes, we all received his emails and reviewed them. The staff does a good job of sending that documentation for us to review before the hearing. I did go out to the site. Had code enforcement handled the situation back in 2016, we wouldn't be addressing what we have here today. But that's after the fact. But we have a situation in which the new homeowners have purchased the property where there was a whole bunch of illegal dumping, and they have decided to take it upon themselves to make it right. And I greatly appreciate that you're willing to take on that responsibility. It's not for me to say whether the prior owners should be held accountable for any incurred costs. But I would also like for everyone to keep in mind is that, be aware that large trucks have been on this road since 2016. This individual had been doing illegal dumping for at least six years until the property was sold. There are pictures. We have them in our documentation of big trucks dumping things out there. So to tell the new owner now that you have a concern with trucks coming onto your street doesn't really hold water. For me, it's been done in the past. I think these new owners are more responsible. If they are going to build a house there, they're going to have to bring big trucks onto that property. And in addition, when I was there the other day and did my research, I believe it was 66 Mule Deer Ct. I believe one of the gentlemen spoke to it that the new house was built in 2020. Well, they had to bring equipment in there to do that. So it's not like this road has never seen heavy equipment before. It is there. And there are at least two lots across

the street, that are there for homesites too, and should they be sold, more heavy equipment is going to be on that road. So as for the large trucks, it's what it is. I don't think we're going to get away from that. There's also a cul-de-sac right there, too. I realize that the road is narrow, but it has curbs and is asphalt. And, so being there is a cul-de-sac further up if some types of construction or personal cars were to park up, there would not block access back and forth. The other thing I noticed is that from where the road into the development changes from public to private, the location of this site is .5 miles. So trucks would only be going a half mile in one direction on this road. And in addition, there is no other access point in or out of Mule Deer Court than down that road. So it's not like there's an alternative route. So they're gonna have to have trucks; they're going to have to come on that road to clean up. Now that is going to affect up to 24 homes that are there on that site. There are four homes passed it. The rest of them would be affected. We've heard from some of the homeowners in favor of it and realize that it will happen. So right, wrong, or indifferent, I think we're just going to have to accept that. The other thing that was mentioned was toxic waste. And there's no evidence of toxic waste so I don't think it's really an issue for us to discuss or to take too much into account at this moment. Where I am coming from on this point is you can't deny the individual access to his property. He spent time, energy, and effort to purchase that land; build a beautiful home on it, and for us to start putting a whole bunch of conditions on this individual to make it difficult to have him realize the dream that he wants, I don't think is really in our purview to do that. He's taken on the responsibility to clean up a site, make it beautiful, put a nice home up there, to increase a home values. So that being said, I have two issues that I would be opposed to. I don't see a need to bring it down to two years. I believe that if you compress that timeframe, and you have that much dirt and equipment that has to be moved, all you're doing is increasing traffic or doubling the amount of traffic that has to be there and done quicker. If he can't get it done in four years, which hopefully is not a problem, he would then have to come back to this Board. And then we can address that at that point in time. And as for parking, I do understand that, but people will come and go. The association could work with the individual. But the homeowner has committed to moving things on-site and keeping them off the road to keep the road clear. And so, I'm in support of that. So those are the reasons I am in favor of this project. I think it's a good project. I think the owners have thought it through. I think the association has been there to be helpful also. And I think collectively, in the end, you will have a good quality project.

Member Christensen said in contemplating making a motion, the default for review is four years? Chair Thomas said the default is to bring it from four years to two years. Right now, within the documentation, it's four years.

Member Julian said because we have a neighborhood, I would be supportive of the addition to the condition on mobilization before 7 a.m.

MOTION: Member Christensen 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 conditions, including a 7 a.m. mobilization time and no earlier, and on-site parking of construction vehicles, Special Use Permit Case Number WSUP 23-0006 for Brian Graham, with the conditions included as Exhibit A to this matter, having made all five findings in accordance with the Washoe County Code section 110.810.30, and Verdi Area Plan Policy V 27.13:

- (a) Consistency.** That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Verdi Area Plan;
- (b) 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;
- (c) Site Suitability.** That the site is physically suitable for major grading, and for the

- intensity of such a development;
- (d) **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;
 - (e) **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.

Verdi Area Plan Policy paragraph FV 27.13, approval of permits and administrative use permits must include finding the community character as described in the character statement can be adequately conserved through mitigation of any identified potential negative impacts.

Member Pierce asked for clarification on the motion. Is it for overnight parking, or is that for temporary use parking where they must be parked on the property? Member Pierce said the applicant already said overnight parking would be on his property, so we wouldn't condition that. Member Christensen said that would be long-term parking.

Member Pierce seconded the motion, which carried unanimously in favor.

9. Chair and Board Items

A. Future Agenda Items
None

B. Requests for Information from Staff - Member Julian said I raised the issue of neighborhood meetings and how the staff incorporates neighborhood meetings, results, findings, and suggestions into the staff report. And I was hoping that we would keep that on the radar because I would be interested in seeing how that is institutionalized. DDA Large said we'll make a note of that. Mr. Lloyd will give a presentation in the next few months. Member Julian said I look across reports for consistency. And one of the things I missed was how many parcels were noticed. I think it would be helpful if the county staff would consistently have the same format. So it's flagged to the public and the Board the parcels that are noticed more clearly. That's a simple fix.

10. Director's and Legal Counsel's Items

A. Report on Previous Board of Adjustment Items
None

B. Legal Information and Updates

DDA Large noted the Ormat appeal item would go before the County Commission on Tuesday.

11. Public Comment

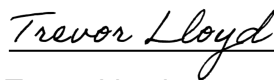
There was no response to the request for public comment.

12. Adjournment

The meeting adjourned at 3:32 p.m.

Respectfully submitted by Misty Moga, Independent Contractor.

Approved by Board in Session on May 4, 2023



Trevor Lloyd
Secretary of the Board of Adjustment