



# BOARD OF ADJUSTMENT MEETING MINUTES

## Board of Adjustment Members

Robert F. Wideman, Chair

Mary S. Harcinske, Vice Chair

Philip J. Horan

Richard "R.J." Cieri

Kim Toulouse

William Whitney, Secretary

Thursday October 4, 2012

1:30 p.m.

Washoe County Commission Chambers  
1001 East Ninth Street  
Reno, NV

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## WASHOE COUNTY BOARD OF ADJUSTMENT

### Minutes

October 4, 2012

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, October 4, 2012 at 1:30 p.m., in the Washoe County District Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

### 1. Determination of Quorum

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

Members present: Robert Wideman, Chair  
Philip Horan  
Richard "R.J." Cieri  
Kim Toulouse

Members absent: Mary S. Harcinske (Resigned September, 2012)

Staff present: Bill Whitney, Acting Director, Community Development  
Roger Pelham, MPA, Senior Planner, Community Development  
Eva Krause, AICP, Planner, Community Development  
Sandra Monsalvè, AICP, Senior Planner, Community Development  
Greg Salter, Deputy District Attorney, District Attorney's Office  
Dawn Spinola, Recording Secretary, Community Development

### 2. Pledge of Allegiance

Chair Wideman led the pledge to the flag.

### 3. Ethics Law Announcement

Deputy District Attorney (DDA) Salter recited the Ethics Law standards.

#### 4. Appeal Procedure

Mr. Whitney recited the appeal procedure for items heard before the Board of Adjustment.

#### 5. Public Comment

As there was no response to the call for public comment, Chair Wideman closed the public comment period.

#### 6. Approval of Agenda

Chair Wideman suggested the agenda items be heard in the following order: 8A, 8C, 8F, 8B, 8D, 8E and 8G.

In accordance with the Open Meeting Law, Member Horan moved to approve the agenda of October 4, 2012 as amended by Chair Wideman's suggestion. The motion, seconded by Member Toulouse, passed unanimously.

#### 7. Approval of Minutes

Member Toulouse moved to approve the minutes of August 2, 2012. The motion was seconded by Member Cieri and passed unanimously.

#### 8. Project Review Items

##### Agenda Item 8A

PUBLIC HEARING: Amendment of Conditions Case No. AC12-002: Amendment of Special Use Permit Case No. SB10-009 Palomino Valley General Improvement District – Continued from August 2, 2012 Board of Adjustment Meeting - To remove the condition of approval requiring slats in the fencing surrounding the proposed facility.

- Location: 4270 Ironwood Road at the southeast corner of State Route 445 and Ironwood Road.
- Assessor's Parcel No.(s): 076-251-07
- Parcel Size: ± 6.70 Acres
- Area Plan: Warm Springs
- Citizen Advisory Board: Warm Springs CAB
- Commission District: 5 – Commissioner Weber
- Development Code: Article 810, Special Use Permits
- Section/Township/Range: Within Section 7, T22N, R21E, MDM, Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated July 19, 2012. He reminded the Board that they had approved the facility with the condition regarding the screening slats and there had been no discussion regarding the subject at the meeting. He noted that screening of the facility was not a requirement of Code. If it was a requirement of Code it would not be a condition of approval. A separate Director's Modification had been approved to alter landscaping requirements, but the slats are not considered landscaping so the condition remained.

Chair Wideman opined the screening was approved by the Board not because it is required, but because it is a typical condition. He asked Mr. Pelham if it was needed. Mr. Pelham replied it would visually soften the chain link but other options might be pursued.

Member Cieri noted the conditions had been labeled improperly and Mr. Pelham stated he would make the corrections as necessary. Member Cieri noted the applicant had offered to include a condition stating the yard would not be used for storage and stated he would like the Board to consider adding it. Mr. Pelham agreed it would be a benefit.

Applicant Larry Johnson noted there had been confusion at the prior hearing regarding which project was under consideration. He stated there had been no public opposition to the request. Mr. Johnson summarized events to date, including the fact there had been no discussion regarding the slats at the original hearing due to the fact PVGID had incorrectly thought that condition would be removed when the Director's Modification was approved. He noted the primary reasons for the request included cost and security. He agreed the proposed condition should be modified to indicate there would be no vehicle or equipment storage.

Member Cieri stated he had originally objected to the removal of the condition, but that he would withdraw the objection if the condition prohibiting storage in the yard were added.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. Member Toulouse stated he was friends with Mr. Johnson but had no pecuniary interest and did not feel it would have any impact on his decision.

Member Cieri moved to approve as amended Amendment of Conditions Case No. AC12-002: Amendment of Special Use Permit Case No. SB10-009 Palomino Valley General Improvement District. The motion was seconded by Member Horan and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive 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 water truck fill station, 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; and
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.

### **Agenda Item 8C**

PUBLIC HEARING: Amendment of Conditions Case No. AC12-004, to amend Special Use Permit Case No. SB12-004 – NV Energy – To allow the addition of a microwave dish, two feet in diameter, to

the previously approved monopole, for communication of data.

- Location: At the existing water tank approximately 600 feet west (uphill) from the intersection of Timberline Drive and Timberline View Court
- Assessor's Parcel No.(s): 049-070-41
- Parcel Size: ± 1.78 acres
- Zoning: General Rural (GR)
- Area Plan: Forest
- Citizen Advisory Board: Southwest Truckee Meadows
- Commission District: 1 – Commissioner Breternitz
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Section/Township/Range: Section 34, T18N, R19E, MDM  
Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham requested the Chair call the Applicant, as he understood they wished to continue the item.

Applicant Mark Sullivan stated they planned to go forward with the request. He summarized there were three issues to be discussed and he was prepared to do so. He noted that if there were some legal reason the Board could not rule in their favor at the meeting he would like to know, but otherwise they would move forward.

Mr. Pelham explained he had recommended the case should be approved. The requested dish had already been installed on the monopole. He explained the original Special Use Permit (SUP) was approved as a single, slim-line monopole with screening. A resident had contacted Community Development to ask about the dish, which alerted staff to its existence. Mr. Pelham explained it was determined that the dish and pole had been constructed without proper permits.

Mr. Pelham opined the dish created little visual impact and staff had been prepared to recommend approval. This circumstance changed with the absence of the building permits, as most conditions are required to be completed prior to or in conjunction with obtaining them. As of the morning of the hearing, the landscaping and fencing had not been installed, but the applicant had applied for the required building permits. He noted two letters received from neighbors stating the dish was not originally approved and requesting visual mitigation. Staff was recommending neither approval nor denial. He was not comfortable recommending approval based on the fact it was constructed without permits, but the level of the request was so minor it did not rise to the level of something staff thought should be denied.

Mr. Sullivan stated there were three issues, the dish, the landscaping and the building permit. The original SUP had been approved "To allow the construction of a wireless communication monopole 45 feet in height and associated equipment." NV Energy staff considered the dish to be associated equipment, so had proceeded with installation. Mr. Sullivan had not been informed. When Mr. Pelham became aware of the dish, he contacted Mr. Sullivan, who promptly submitted the application for an Amendment of Conditions.

Mr. Sullivan noted different conditions were subject to compliance at different stages of construction. Typically landscaping is the final step, and the trees were scheduled to be planted the following Monday. The landscape plan had been professionally designed as required, although certain hurdles regarding irrigation were still being addressed. The landscaping

company that was hired to install the trees had cautioned against doing it at this time, but Mr. Pelham had requested they be planted prior to the hearing in accordance with the condition of approval. Mr. Sullivan countered the water would be turned off on October 15 and the trees may not survive. If the Board were adamant about the landscaping being installed immediately, Mr. Sullivan would devise an alternate method to keep the trees watered as they became established. He requested the Board consider the option of allowing the trees be planted in the spring when the water is turned on again.

Mr. Sullivan explained NV Energy had installed a million meters and were familiar with the International Building Codes regarding monopoles, which stated they were exempt from the requirement of a building permit. He noted there was no amendment to the Code that altered the rule. After hearing from Mr. Pelham the permit was required in Washoe County, Mr. Sullivan met with the Washoe County Building Official, Don Jeppson, and learned that the County had unique standards that required permits for monopoles. NV Energy had immediately submitted the required application and fees to obtain the building permit.

Member Cieri asked if NV Energy owned the water tank. Mr. Sullivan stated it belonged to the South Truckee Meadows General Improvement District. Mr. Sullivan anticipated Member Cieri's question asking why the water in the tank could not be used to water the trees and explained the water in the tank was for human consumption which required special handling to avoid contamination.

Member Horan asked how many of the poles across the state had the dishes and Mr. Sullivan replied that it was approximately half.

Randy Collins expressed his concerns about the fact what was constructed was not the same as what was originally approved and that the landscaping had not yet been installed. Mr. Collins then spoke for his neighbor Julie Savage, who opined the dish was an eyesore.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

DDA Salter pointed out the applicant had a right to continue the matter at any time prior to a motion being made. He reiterated Mr. Sullivan had indicated that if there were any legal reason the Board could deny the request, he may request the continuance. DDA Salter opined there was a legal reason for denial, which was that the original Special Use Permit (SUP) has not yet been established because the conditions have not yet been met.

Mr. Sullivan clarified he would ask for the continuance if there were a legal reason the Board could not approve the request. DDA Salter explained it was also within the Board's power to continue it until after the SUP conditions had been met.

Member Cieri stated he had a question for Mr. Pelham, and Chair Wideman reopened the hearing. Member Cieri asked Mr. Pelham if the pole as constructed was the same as what was approved, and Mr. Pelham stated it was substantially compliant with what was approved. The only change was the addition of the dish.

Member Horan requested and received clarification water was available for landscaping between April and October.

Member Toulouse asked how long the landscaping was expected to survive and be maintained. Mr. Pelham replied Code required 100% for three years, and there was no standard beyond that time period. He opined it would be unlikely the applicant would allow the

trees to die after three years, but if they did and someone complained, Code Enforcement would get involved and the landscaping would have to be brought back up to Code standard.

Chair Wideman closed the public hearing.

Member Horan opined the applicant did not set out to deceive the Board or the neighbors; there was simply a series of events that caused misunderstandings. He felt they should be allowed to plant the trees when the water was turned back on in the spring. He also opined that had the dish been part of the original SUP, he would still have voted in favor of the project.

Chair Wideman reiterated the only item on the agenda was regarding approving the dish. There was nothing about building permits or landscaping issues. He stated he would have also voted for approval of the project had the dish been part of the original request. He pointed out there will be many more antennas constructed and they will have a variety of associated equipment which will change as technology changes. He asked if they were hearing this case because there was a policy change and if so, how it would be dealt with in the future.

Member Cieri noted additions and changes to design of the communication towers can alter the appearance in negative ways and opined reviews such as the one being heard were a necessary function.

Member Toulouse expressed concern with approving an amendment to an SUP that had not been finalized. DDA Salter opined it was within the Board's purview to either approve or deny the request. They may consider as a factor whether or not the underlying SUP has been legally established. Even if it has not, they are not required to deny the amendment request based on that fact.

Chair Wideman reiterated enforcement of conditions was handled by staff employed for that purpose. He opined they had not heard any evidence to indicate NV Energy was not moving forward with conditions as approved.

Chair Wideman reopened the public hearing and requested Mr. Pelham speak to the issues that had been brought up. Mr. Pelham stated a condition could be added to clarify a specific time period for the original conditions to be completed if it would allay the Board's concerns. The Board declined and acknowledged NV Energy had been consistent in their good-faith efforts to comply with conditions.

Mr. Pelham opined a request to amend an SUP in process was not unusual or out of line. Member Toulouse asked if Mr. Pelham felt the applicant had substantially adhered to the conditions of approval and Mr. Pelham replied he believed they were in the process of doing so.

Member Horan moved to approve conditionally, Amendment of Conditions Case No. AC12-004, to amend Special Use Permit Case No. SB12-004 – NV Energy, to allow the addition of a microwave dish to the previously approved monopole.

Member Cieri asked if there was to be a waiver regarding the planting of the trees. Member Toulouse noted the applicant had requested it. DDA Salter pointed out the item was not agendaized.

The motion was seconded by Member Cieri and passed three in favor and one opposed, Member Toulouse voting against based on his concerns regarding the status of the original SUP.

The motion was based on the following findings:

1. Consistency. The proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan.
2. Improvements. 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. The site is physically suitable for the addition of a microwave dish to the monopole antenna and for the intensity of the development;
4. Issuance Not Detrimental. 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; and
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

Code contains three additional conditions for monopoles:

- A. That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Community Development and/or his/her authorized representative;
- B. That public input was considered during the public hearing review process; and
- C. That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

### **Agenda Item 8F**

**PUBLIC HEARING:** Special Use Permit No. SB12-011 - NV Energy – a request to install a 54.5-foot tall monopole antenna at 2540 Antelope Valley Road for the “NV Energize” meter program

- Location: 2540 Antelope Valley Road
- Assessor’s Parcel No.(s): 079-481-69
- Parcel Size: 54 Acres
- Area Plan: North Valleys
- Citizen Advisory Board: North Valleys
- Commission District: 5- Commissioner Weber
- Development Code: As authorized in Article 810 and required by Article 324
- Section/Township/Range: Within Section 14, T22N, R19E, MDM, Washoe County, NV

Chair Wideman opened the public hearing.

Ms. Krause reviewed the staff report dated July 20, 2012, noting the addition of a small antenna attached to the monopole and that the design did not allow climbing. She noted the deletion of two conditions, one regarding the installation of anti-climb devices and another that was redundant. She also noted the case number had been listed incorrectly and would be changed.

Mr. Sullivan stated they agreed with all conditions and expressed his gratitude Ms. Krause had changed them.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan moved to approve, as amended, Special Use Permit No. SB12-011 - NV Energy. The motion was seconded by Member Toulouse and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the wireless communications facility is consistent with the action programs, policies, standards, and maps of the Washoe County Master Plan and the North 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 a monopole antenna wireless communications facility and for the intensity of such development;
4. Issuance Not Detrimental. That approval of a Special Use Permit for a wireless communications facility consisting of a monopole antenna 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. That granting approval of the Special Use Permit for a monopole antenna wireless communications facility will not have a detrimental effect on the location, purpose, or mission of the military installation; and
6. Article 324 Standards. That the proposed wireless communications facility consisting of a monopole antenna meets the standards of Article 324 Communication Facilities;
7. Public Input. That any public input received was considered during the public hearing review process; and
8. Impacts. That the proposed wireless communications facility consisting of a monopole antenna will not unduly impact any adjacent neighborhoods or vistas and ridgelines within Washoe County.



## Agenda Item 8B

PUBLIC HEARING: Amendment of Conditions Case No. AC12-003, to amend Special Use Permit Case Nos. SB09-002 and SB10-003 – Tahoe Estates, LLC – To remove a condition of approval requiring removal of a temporary structure from SB10-003 and replace that condition on SB09-002. Both special use permits approved detached accessory dwellings on adjacent parcels within the same overall development.

- Location: South side of Lakeshore Boulevard, approximately 600 feet west of its intersection with Selby Drive and is addressed as 1029 Lakeshore Boulevard, Incline Village
- Assessor's Parcel No.(s): 130-230-36 and 130-230-05
- Zoning: High Density Rural (HDR) and High Density Suburban (HDS)
- Parcel Size: ± 2.02 acres and ± 3.18 acres
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village / Crystal Bay
- Commission District: 1 – Commissioner Breternitz
- Development Code: Article 810, Special Use Permits
- Section/Township/Range: Within Section 23, T16N, R18E, MDM, Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated September 20, 2012, explaining it was essentially just an administrative change between two SUPs.

Applicant's Representative Lori Shannon assured the Board the final remaining accessory building would be removed at the end of construction of the overall project.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan stated he was certain the building would be removed and Chair Wideman agreed.

Member Horan moved to approve Amendment of Conditions Case No. AC12-003, to amend Special Use Permit Case Nos. SB09-002 and SB10-003 – Tahoe Estates, LLC. The motion was seconded by Member Cieri and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed amendment 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. The site is physically suitable for the type of development and for the intensity of 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; and
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.

### Agenda Item 8D

**PUBLIC HEARING: Variance Case No. VA12-004 - Laurel Dempsey** –To vary the required front yard setback from 30 feet to 18.6 feet, to vary the rear yard setback from 30 feet to 19.1 feet and to vary the front yard fence height from 4.5 to 6 feet in height along the southerly most parcel line to accommodate an existing fence and existing dwelling.

- Location: 4835 Canyon Drive, approximately 250 feet northwest of the intersection of Canyon Drive and Westgate Road
- Assessor’s Parcel No.(s): 009-101-14
- Parcel Size: ± 22,460 square feet
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: West Truckee Meadows
- Commission District: 1 – Commissioner Breternitz
- Development Code: Article 804, Variances
- Section/Township/Range: Within Section 17, T19N, R19E, MDM, Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham introduced Intern Ernest Adamo, who reviewed the staff report dated September 20, 2012. He noted the Variance was required in response to a settlement between the applicant and a neighbor regarding a property line issue. He noted the findings could be made for the Variance as the lot was constrained by width and slope.

Member Horan opined the settlement created a situation in which the Board needed to approve the Variance after the fact, as the applicant was no longer in compliance with setbacks. Mr. Pelham replied the lot was already too narrow and was becoming narrower, and was also constrained by the slope as mentioned earlier. The Variance was legalizing the development as it exists with the change to the lot line. It would not be necessary were it not for the settlement.

Member Horan stated the County was being made a party to the settlement, as no changes were being made, but the settlement had created the situation wherein the property was not in compliance with setbacks. Mr. Pelham disagreed, noting there were practical difficulties with the lot regardless of the reason the Variance was required.

Applicant’s Representative David Crook stated they agreed with all conditions and offered to answer any questions.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan reiterated his concern the decision would make the county a party to the settlement or alter its validity. Chair Wideman acknowledged it was not comfortable to make the decision, but had it been considered without the factor of the settlement, it would most likely have been approved anyway due to the lot constraints. Member Toulouse agreed.

Member Toulouse moved to approve conditionally Variance Case No. VA12-004 - Laurel Dempsey. The motion was seconded by Member Cieri and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Truckee Meadows 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 grading for future landscaping, 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; and
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.

At 3:30 p.m. Chair Wideman called a five-minute recess. He called the meeting back to order at 3:35.

### **Agenda Item 8E**

**PUBLIC HEARING:** Amendment of Conditions Case No. AC12-005, to amend Special Use Permit Case No. SB12-012 – Sun Valley General Improvement District (SVGID) / Reno Indoor Paintball – To remove conditions of approval numbered 3a, 3b and 3c, as originally recommended by Washoe County Risk Management, that are not applicable to a project on property not owned by Washoe County.

- Location: 115 West 6<sup>th</sup> Avenue, Sun Valley, at the Sun Valley Community Park
- Assessor's Parcel No.(s): 085-211-03
- Parcel Size: ± 20 Acres
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley
- Commission District: 3 – Commissioner Jung
- Development Code: Article 810, Special Use Permits
- Section/Township/Range: Within Section 18, T20N, R20E, MDM, Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated September 20, 2012. He clarified Washoe County has deeded ownership of the park to SVGID so the conditions recommended to protect the County are not appropriate.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Cieri moved to approve conditionally Amendment of Conditions Case No. AC12-005 to Special Use Permit Case Number SB12-012 - SVGID Paintball Park. The motion was seconded by Member Toulouse and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed amendment is consistent with the action programs, policies, standards and maps of the Master Plan and the Sun Valley 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. The site is physically suitable for the type of development and for the intensity of 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; and
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.

### **Agenda Item 8G**

**PUBLIC HEARING:** Extension of Time Request for Special Use Permit Case No. SB10-012 and Variance Case No. VA11-001 - Washoe County Regional Parks Department – To extend for 5 years, until August 3, 2016, the approval of the Special Use Permit to allow for excavation exceeding 1,000 cubic yards, disturbance of a Significant Hydrologic Resource (SHR); and Variance to construct retaining walls in excess of 6 feet in order to accommodate the development of the Ballardini Ranch Trailhead.

- Location: Western end of Lone Tree Lane, ±0.6 miles west of Lakeside Drive
- Assessor's Parcel No.(s): 222-080-07 and 222-080-08
- Parcel Size: ±121.2 and ±90.6 acres respectively
- Current Regulatory Zone(s): General Rural (GR), Low Density Rural (LDR), and Medium Density Suburban (MDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: Southwest Truckee Meadows
- Commission Districts: 1 – Commissioner Breternitz and  
2 – Commissioner Humke

- Development Code: Authorized in Article 810 Special Use Permits, Section 110.810.65, and Article 804 Variances, Section 110.804.55
- Section/Township/Range: Within Sections 2, 3, 11, T18N, R18E, MDM Washoe County, NV

Chair Wideman opened the public hearing.

Ms. Monsalvè reviewed the staff report dated September 24, 2012.

Applicant's Representative Melissa Lindell explained they had been working diligently on obtaining the necessary permits but had not yet been able to complete that process.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan moved to approve conditionally Extension of Time Request for Special Use Permit Case No. SB10-012 - Washoe County Regional Parks Department. The motion was seconded by Member Toulouse and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the Southwest Truckee Meadows 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 trailhead development, in that there are no other facilities that might be utilized at this location;
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. Special Review Considerations. That the Board of Adjustment considered the Special Review Considerations as stated in Section 418.30 of the Development Code, listed below, and found that, as conditioned, adequate provisions have been made to comply with these considerations; and
  - (a) Conservation of topsoil;
  - (b) Protection of surface water quality;
  - (c) Conservation of natural vegetation, wildlife habitats and fisheries;
  - (d) Control of erosion;
  - (e) Control of drainage and sedimentation;

- (f) Provision for restoration of the project site to predevelopment conditions;
  - (g) Provision of a bonding program to secure performance of the requirements imposed; and
  - (h) Preservation of the hydrologic resources, character of the area and other conditions as necessary.
6. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of any military installation, as there are no military installations in that area of Washoe County.

Member Toulouse moved to approve conditionally Extension of Time Request for Variance Case No. VA11-001 - Washoe County Regional Parks Department. The motion was seconded by Member Cieri and passed unanimously.

The motion was based on the following findings:

1. Special Circumstances. Because of the special circumstances applicable to the property, including either the:
  - a. Exceptional narrowness, shallowness or shape of the specific piece of property, or
  - b. By reason of exceptional topographic conditions, or
  - c. Other extraordinary and exceptional situation or condition of the property and/or location of surroundings, or
  - d. The strict application of the regulation results in exceptional and undue hardships upon the owner of the property.
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property; and,
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

## 9. Chair and Board Items

### A. Resolution of Appreciation for Mary Harcinske

Chair Wideman read the Resolution for the record and commended Mary's professionalism. Member Horan opined she had been a tremendous asset to the Board. Member Toulouse expressed his gratitude for her assistance when he first joined the Board

and stated she would be sorely missed. Member Cieri agreed with all comments and everything in the Resolution. Mr. Whitney expressed the staff of Community Development will miss her and wish her the best.

Member Horan moved to adopt the resolution. The motion was seconded by Member Toulouse and passed unanimously.

#### B. Election of Officers: Board of Adjustment Vice Chair

Member Cieri recommended appointment of Member Toulouse as Vice Chair, and Member Horan seconded. Member Toulouse stated he would be privileged to serve. The motion passed unanimously.

#### C. Introduction of updated Rules, Policies and Procedures (RPPs)

DDA Salter explained the RPPs were being updated to accommodate an upcoming change to Article 910, which provides for Administrative Hearings. Appeals of decisions for these hearings and appeals of decisions by county officers are to be heard by the Board of Adjustment.

DDA Salter briefly reviewed the major changes to the content, formatting and structure of the new RPPs. He explained they will be formally presented for Board input and possible adoption at the December meeting.

Chair Wideman opined the appeals mentioned must have been heard somewhere and DDA Salter stated there had not yet been any. Chair Wideman asked if the appeals would be heard in public hearing or trial format. DDA Salter explained they would primarily be in the public hearing format, hopefully without lawyers and witnesses. Most would be matters of record and the Board's job will be to review the record and make a determination as to whether or not the person who made the decision was acting in an arbitrary or capricious manner or ignoring substantial evidence. The Chair can authorize cross-examinations.

Chair Wideman opined this development changes the complexion of what the Board does and may affect who would want to serve on it.

Mr. Whitney suggested the Board members review the RPPs and contact staff with any questions that come up prior to the open discussion at the December meeting.

#### D. \*Report on Previous Board of Adjustment Items

None

#### E. Future Agenda Items and Staff Reports

None

Member Horan opined the new Motions pages provided for the Board's convenience were very helpful. Member Toulouse agreed.

### 10. Director's Items

#### A. National Community Planning Month, October 2012

Mr. Whitney introduced a Proclamation declaring the month of October to be National Community Planning Month in the County. He emphasized that many

individuals and organizations contribute to the planning process including the Board, and he thanked them. The proclamation recognizes these individuals and organizations and their valuable efforts in making Washoe County a quality place to live, work and recreate. Mr. Whitney read the Proclamation into the record.

Chair Wideman expressed his sentiments regarding the value of good community planning.

Member Horan recommended adoption of the Proclamation, and Member Cieri seconded. The motion passed unanimously.

B. \*Legal Information and Updates

None

## **11. Public Comment**

As there was no one wishing to speak, Chair Wideman closed the Public Comment period.

## **12. Adjournment**

There being no further business to come before the Board of Adjustment, the meeting adjourned at 4:05 p.m.

Respectfully submitted,

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Dawn Spinola, Recording Secretary

Approved by Board in session on December 6, 2012

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William Whitney  
Secretary to the Board of Adjustment