



Board of Adjustment Staff Report

Meeting Date: February 6, 2014

Subject: Amendment of Conditions Case Number AC13-012
for Special Use Permit Case Number SB10-011

Applicant(s): Palomino Valley General Improvement District (PVGID)

Agenda Item No.: 8E

Project Summary: To extend for one year the timeframe for the revegetation the graded areas for the Palomino Valley General Improvement District facility.

Recommendation: **Approval with Conditions**

Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
Phone: 775.328.3620
E-Mail: tlloyd@washoecounty.us

Description

Amendment of Conditions Case Number AC13-012 (Palomino Valley General Improvement District) – To amend condition 1i of Special Use Permit Case Number SB10-011 to extend for one additional year the timeframe for the revegetation to achieve a 50% minimum vegetative coverage to the graded areas of the Palomino Valley General Improvement District facility.

- Applicant/Owner: Palomino Valley General Improvement District (PVGID)
- Location: 5105 Wayside Road
- Assessor's Parcel Number: 077-350-02
- Parcel Size: 42.53 Acres
- Master Plan Category: Rural
- Regulatory Zone: General Rural
- Area Plan: Warm Springs
- Citizen Advisory Board: Warm Springs/Rural
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 5 – Commissioner Weber
- Section/Township/Range: Section 33, T23N, R21E

Staff Report Contents

Amendment of Conditions.....3
Vicinity Map.....4
Site Plan.....5
Background and Evaluation of Amendment Request6
Public Notice6
Warm Springs/Rural Citizen Advisory Board7
Reviewing Agencies.....7
Staff Comment on Required Findings.....7
Recommendation.....8
Motion8
Appeal Process.....8

Exhibits Contents

Conditions of Approval.....Exhibit A
Board of Adjustment Minutes, 12/2/2010.....Exhibit B
Warm Springs Citizen Advisory Board Memorandum.....Exhibit C
Public Notice.....Exhibit D

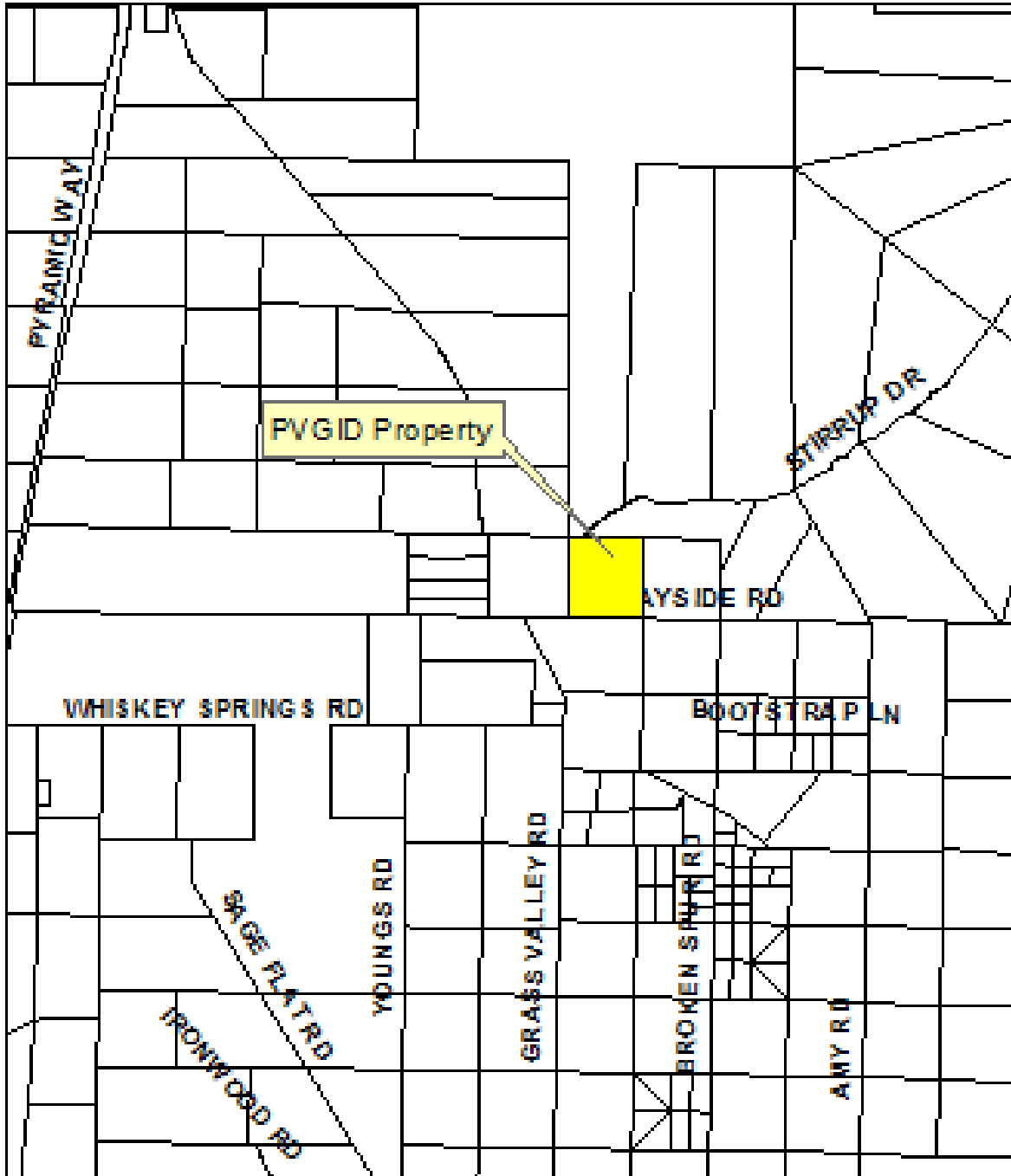
Amendment of Conditions

An Amendment of Conditions application is necessary in order to change a condition(s) of an approved discretionary permit, such as a special use permit, a variance, an abandonment of an easement or a tentative subdivision map. Some examples of why an Amendment of Conditions application is submitted are listed below:

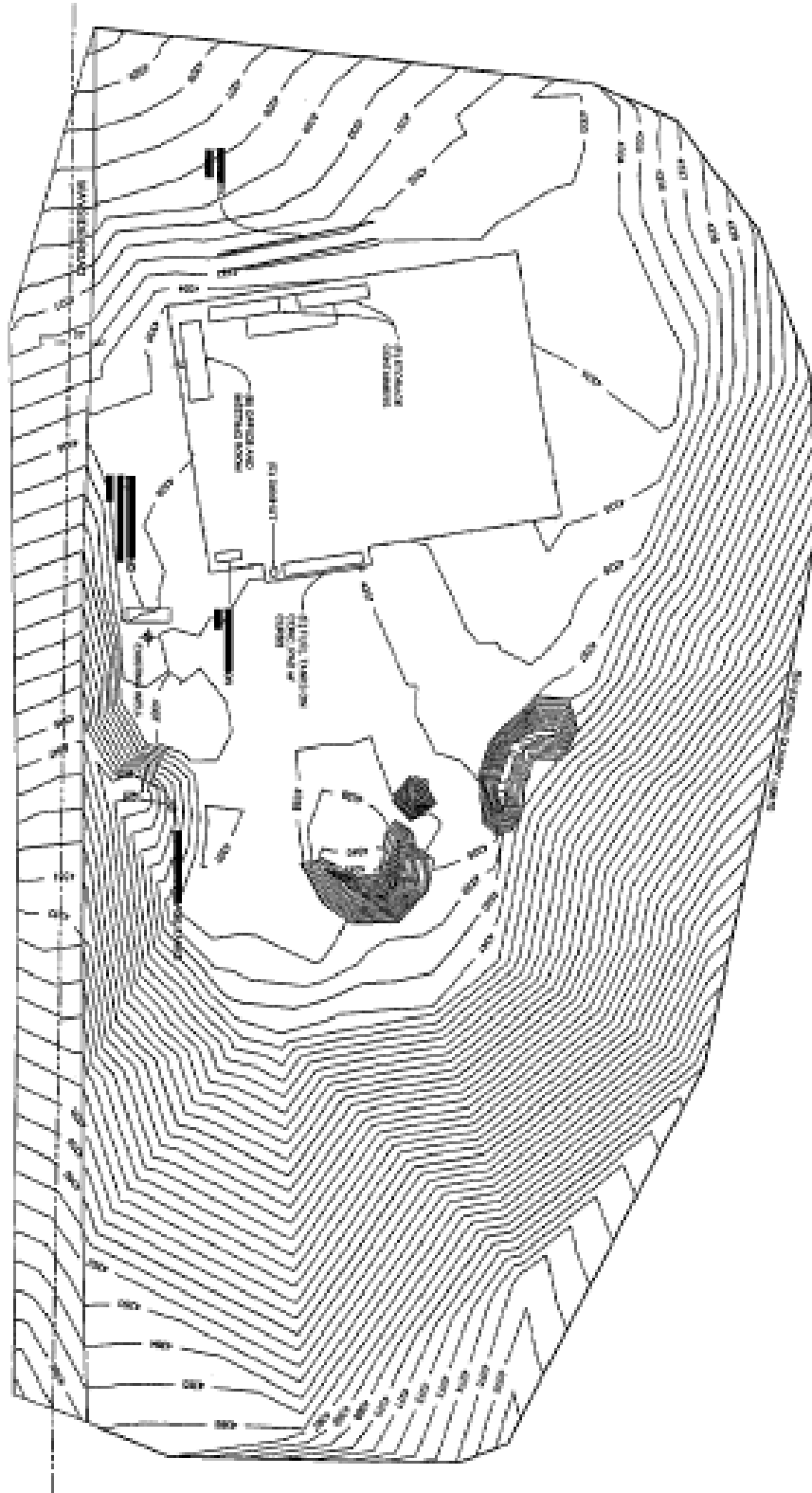
- Change in operating hours
- Physical expansion
- Extend the expiration date of the discretionary permit
- Extend the time to complete phases of the approved project

The Amendment of Conditions request is required to be heard by the same board that approved the original application and only the specific amendment may be discussed and considered for approval. The Amendment of Conditions application is processed in the same manner as the original discretionary permit application, including a public hearing, noticing, possible involvement of a citizen advisory board, agency review and analysis, and satisfying the required findings. If the Board of Adjustment grants an approval of the Amendment of Conditions request, an amended Action Order is created along with amended conditions of approval.

The Conditions of Approval for Amendment of Conditions Case Number AC13-012 are attached to this staff report and will be included with the amended Action Order.



Vicinity Map



Site Plan

Background and Evaluation of Amendment Request

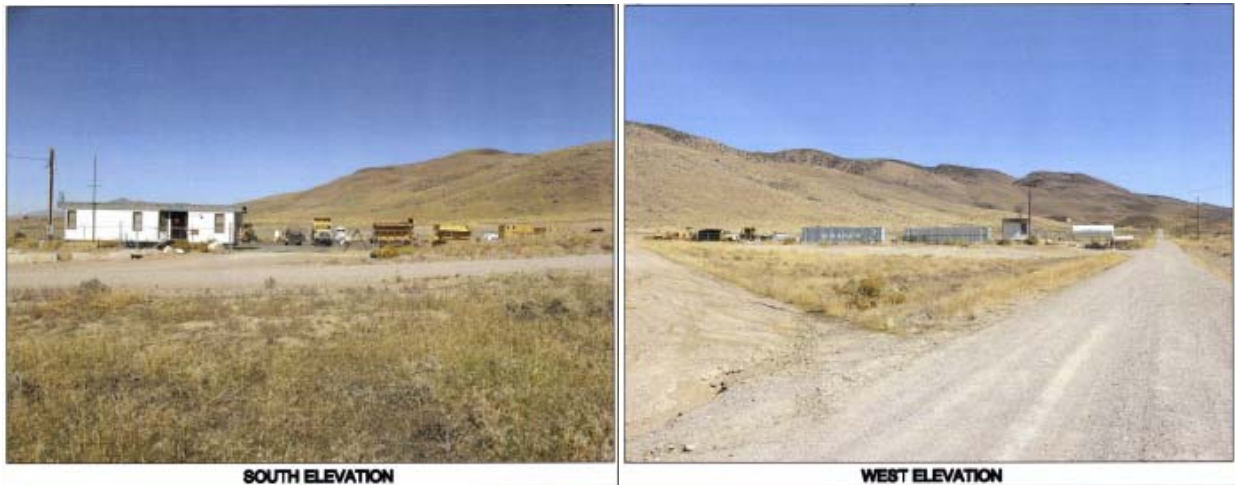
The Palomino Valley General Improvement District (PVGID) is asking for a one year extension to Condition 1(i) of Special Use Permit Case Number SB10-011. Condition 1(i) provides the following language:

“All revegetation areas shall be provided with temporary irrigation for a time period of not less than three years or longer if necessary until revegetation has achieved 50% of the vegetative coverage of the adjacent undisturbed hillside.”

In January of 2013, a landscape company treated the disturbed hillsides with a hydroseed spray. The three-year time frame shall expire on February 3, 2014 and the applicants are asking to extend this time frame to allow additional time for the revegetation to take and mature. Staff recommends that the applicant be granted two additional years until February 3, 2016 to achieve the 50% vegetative coverage of the adjacent undisturbed hillside. This additional two year time frame will provide a total of three years for the revegetation to take. A three-year revegetation time-frame is consistent with most revegetation projects throughout Washoe County. Staff recommends condition 1(i) to be amended as follows:

“All revegetation areas shall be provided with temporary irrigation until revegetation has achieved 50% of the vegetative coverage of the adjacent undisturbed hillside, which shall occur on or before February 3, 2016.”

Washoe County shall continue to ensure that all conditions of the Special Use Permit Case Number SB10-011 are being adhered to. Staff does not anticipate any impacts or concerns associated with the requested amendment.



Public Notice

A “*Courtesy Notice*” regarding Amendment of Conditions AC13-012 was mailed on January 2, 2014, to 31 separate property owners who own parcels that are located within 500 feet of the subject parcel. A “*Courtesy Notice*” is not legally required, but is a preliminary notice to those property owners who will receive the legal notice.

Notification (legal notice) of the public hearing for Special Use Permit AC13-012 was mailed on January 24, 2014, to the same 31 separate property owners who own parcels that are located within 500 feet of the subject parcel. These notices also included the Warm Springs/Rural Citizen Advisory Board members.

Nevada Revised Statutes (NRS) and Washoe County Development Code, Article 810, *Special Use Permits*, requires a minimum 500 foot radius from the subject parcel and a minimum of 30 separate property owners noticed. The notices must be mailed at least 10 days prior to the public hearing date.

Warm Springs/Rural Citizen Advisory Board (WS/R CAB)

The amendment of conditions application was heard by the Warm Springs/Rural Citizen Advisory board on January 13, 2014. The Citizen Advisory Board voted unanimously to deny the request because they did not believe that money should be spent on landscaping.

Reviewing Agencies

The following agencies received a copy of the Amendment of Conditions Application for review and evaluation.

- Washoe County Planning and Development
- Washoe County Engineering and Capital Projects
- Air Quality Management
- Washoe County Environmental Health
- Regional Transportation Commission

Two of the above listed agencies/departments provided comments and/or recommended conditions in response to their evaluation of the Amendment of Conditions application but only Planning and Development provided substantive comments. A **summary** of the agency's comments and their contact information is provided. An Amended Conditions of Approval document is attached to this staff report and will be included with the Amended Action Order.

- Washoe County Planning and Development addressed the need for additional time to allow for the revegetation on site.

Contact: Trevor Lloyd, Senior Planner 328-3620 tlloyd@washoecounty.us

Staff Comment on Required Findings

Section 110.810.30 of Article 810, Special Use Permits, within the Washoe County Development Code, requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the amendment request. Staff has completed an analysis of the amendment application and has determined that the proposal is in compliance with the required findings as follows.

1. Consistency. That the proposed amendment is consistent with the action programs, policies, standards and maps of the Master Plan and the Warm Springs Area Plan.

Staff Comment: The Special Use Permit for grading has been approved and this amendment is incidental to the approval.

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.

Staff Comment: Adequate facilities are in place. The parcel is currently developed with an existing public service yard.

3. Site Suitability. That the site is physically suitable for the use and for the intensity of such a development.

Staff Comment: The facility is already in place.

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.

Staff Comment: The proposed extension of time to allow for the revegetation to mature will not have a significant detrimental health, safety or welfare. Little, if any, additional impacts are anticipated.

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.

Staff Comment: There is no military installation in the vicinity of the project site.

Recommendation

Those agencies which reviewed the application did not recommend denial of the Amendment of Conditions request. Therefore, after a thorough review and analysis, Amendment of Conditions Case Number AC13-012 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

I move that after giving reasoned consideration to the information contained within the staff report and the information received during the public hearing, the Washoe County Board of Adjustment approve Amendment of Conditions Case Number AC13-012 for Palomino Valley General Improvement District, having made all five findings in accordance with Washoe County Development Code Section 110.810.30:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Warm Springs Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for the existing facility and the request to extend the timeframe for the revegetation to mature.
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.

Appeal Process

Board of Adjustment action will be effective 10 days after the public hearing date, unless the action is appealed to the County Commission, in which case the outcome of the appeal shall be determined by the Washoe County Commission.

xc: Owner/Applicant: Palomino Valley General Improvement District, Attn: Larry Johnson, 5105 Wayside Road, Reno, NV 89510

Action Order xc: Gregory Salter, Esq., District Attorney's Office; Carol Buonanoma, Assessor's Office (CAAS); Theresa Wilkins, Assessor's Office; Susan Hood/John Cella, Water Resources; Kimble Corbridge/Leo Vesely, Engineering; Amy Ray, Truckee Meadows Fire Protection District; Warm Springs/Rural Citizen Advisory Board, Chair.



Conditions of Approval

Amendment of Conditions Case No. AC13-012

The project approved under Amendment of Conditions Case No. AC13-012 to amend Special Use Permit Case No. SB10-011 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on February 6, 2014. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable Codes.

Unless otherwise specified, all conditions related to the approval of this special use permit shall be met or financial assurance must be provided to satisfy the Conditions of Approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Development Division.

Compliance with the Conditions of Approval related to this special use permit is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the special use permit may result in the initiation of revocation procedures.

Washoe County reserves the right to review and revise the Conditions of Approval related to this Special Use Permit should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, "may" is permissive and "shall" or "must" is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some "Conditions of Approval" are referred to as "Operational Conditions." These conditions must be continually complied with for the life of the project or business.

The Washoe County Commission oversees many of the reviewing agencies/departments with the exception of the following agencies.

- **The DISTRICT BOARD OF HEALTH, through the Washoe County Health District, has jurisdiction over all public health matters in the Health District. Any conditions set by the District Health Department must be appealed to the District Board of Health.**

- **The RENO-TAHOE AIRPORT AUTHORITY is directed and governed by its own Board. Therefore, any conditions set by the Reno-Tahoe Airport Authority must be appealed to their Board of Trustees.**
- **The REGIONAL TRANSPORTATION COMMISSION (RTC) is directed and governed by its own board. Therefore, any conditions set by the Regional Transportation Commission must be appealed to that Board.**

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

Washoe County Planning and Development Division

1. The following conditions are requirements of Planning and Development, which shall be responsible for determining compliance with these conditions.

Contact Name – Roger Pelham, 775.328.3622

- a. The applicant shall demonstrate substantial conformance to the plans approved as part of this special use permit. Planning and Development shall determine compliance with this condition.
- b. The applicant shall attach a copy of the action order approving this project to all administrative permit applications (including building permits) applied for as part of this special use permit.
- c. The applicant shall conduct all operations in compliance with all provisions of the Washoe County Code. Particularly Section 110.332.40 Periodic Review of Conditions which requires that the applicant request a review of their conditions of approval every 5 years by the Board of Adjustment. Failure to abide by Article 332 of the Washoe County Code shall render this permit null and void.
- d. Prior to the issuance of any administrative permit issued by Washoe County, the applicant shall remove any off-premise signs (billboards) from the project site (APN: 077-350-02) and place a restrictive covenant on the property that prohibits the further erection of off-premise signs, with Washoe County made a part to the covenant. The District Attorney's Office and Planning and Development shall determine compliance with this condition.
- e. The applicant shall supply a slope analysis to Planning and Development with the first building permit required for improvements to effectuate this special use permit. The slope analysis shall delineate all areas greater than and less than 15% natural slopes. The "future limits of GID quarry" shall be modified such that it does not include any natural slopes of 15% or greater. This special use permit does not authorize any disturbance of, nor development upon, any slopes of 15% or greater.
- f. The applicant shall restore the slope adjacent to wayside road such that there is no slope greater than 5% within the required front yard setback area. The front yard setback area shall be revegetated and trees shall be planted in clusters at a frequency of not less than one tree for each 25 feet of frontage. Fencing as

defined in condition 1f, below shall be installed at the front yard setback line along Wayside Road and shall connect to the fencing required by condition 1f, below.

- g. The applicant shall install an 8-foot tall fence at the “future limits of GID quarry” as shown on Plate 4 of the plans submitted with the SUP application. The fencing shall be chain-link and shall include “priva-max,” “privacy-link” or the equivalent slats that provide not less than 95% visual screening. Slats shall be sage, tan or brown in color to match the surrounding undisturbed hillside to the greatest practical extent. Color choice shall be approved by the Director of Planning and Development. Fencing materials shall be non-reflective. Fencing shall enclose the entire proposed project area within the subject parcel.
- h. **DELETED BY THE BOARD OF ADJUSTMENT (FEBRUARY 3, 2011)**
- i. All trees shall be provided with permanent irrigation. All revegetation areas shall be provided with temporary irrigation **until revegetation has achieved 50% of the vegetative coverage of the adjacent undisturbed hillside, which shall occur on or before February 3, 2016.** ~~for a time period of not less than three years or longer if necessary until revegetation has achieved 50% of the vegetative coverage of the adjacent undisturbed hillside.~~
- j. Final slopes within the project area shall not be steeper than 3:1 (Horizontal:Vertical). For every 15 feet of final vertical slope, a horizontal bench, not less than 10 feet in width, shall be incorporated into the slope design. All horizontal benches shall be revegetated.
- k. All existing storage tanks shall be relocated to within the required screening fence.
- l. All structures, storage tanks, cargo containers and all other items permanently placed within the project area shall be painted sage, tan or brown in color to match the surrounding undisturbed hillside to the greatest practical extent. Color choice shall be approved by the Director of Planning and Development.
- m. All miscellaneous debris, junk equipment, scrap metal and equipment parts shall be removed from the project area, particularly north of the existing equipment storage area. All future storage of miscellaneous debris, junk equipment, scrap metal and equipment parts is prohibited as a condition of approval of this permit.
- n. A note shall be placed on all construction drawings and grading plans stating:

NOTE

Should any prehistoric or historic remains/artifacts be discovered during site development, work shall temporarily be halted at the specific site and the State Historic Preservation Office of the Department of Museums, Library and Arts shall be notified to record and photograph the site. The period of temporary delay shall be limited to a maximum of two (2) working days from the date of notification.

- o. All landscaping for the administrative office, as required by Article 412 shall be incorporated into the design of the perimeter of the project. All landscaping as required by Article 412 for all parking areas shall be incorporated into the design of the perimeter of the project. All parking areas shall be paved to the standards of Article 410, unless a modification of standards is approved by the Director of Planning and Development. All equipment storage areas are parking, loading and/or maneuvering areas as defined by Article 410. Calculations for all landscaped areas required by Article 412 shall be included with the proposed plans.
- p. Prior to any additional ground disturbing activity, the applicant shall submit a landscaping/architectural design plan to Planning and Development for review and approval. Said plan shall address, but not be limited to: type and color of building materials, general architectural design, parking, parking lot circulation and striping, signage, exterior lighting, fencing, trash enclosures, landscaping material (if plant material: type, size at time of planting, maturation size at full growth, period of time between planting and full growth), landscaping location, landscaping irrigation system, and financial assurances that landscaping will be planted and maintained.
- q. A certification letter or series of letters by a registered landscape architect or other persons permitted to prepare landscaping and irrigation plans pursuant to N.R.S. 623A shall be submitted to and approved by Planning and Development. The letter(s) shall certify that all applicable landscaping provisions of Articles 408, 410 and 412 of the Development Code have been complied with. All landscaping plans and the letter shall be wet-stamped. The letter shall indicate any provisions of the code that the Director of Planning and Development has waived.
- r. All landscaping shall be maintained in accordance with the provisions found in Section 110.412.75, Maintenance. A three-year maintenance plan shall be submitted by a licensed landscape architect registered in the State of Nevada to Planning and Development, prior to a Certificate of Occupancy. The plan shall be wet-stamped.
- s. Construction plans shall include a photometric analysis for exterior lighting and detailed cut-sheets for all exterior lighting fixtures. No light spill-over is allowed outside of the "future limits of GID quarry" as indicated on the plans submitted. All lighting fixtures (including those attached to the office structure) shall be shielded such that all light is directed downward. No light may be emitted above the horizontal plane, level with the luminary.
- t. The applicant shall submit a plan for phased restoration of the project site, using the boulder-and-talus concept included with the plans submitted. The plan shall emphasize restoration of areas on the perimeter of the project first. The plan and timing of restoration shall be acceptable to the Director of Planning and Development.
- u. The following **Operational Conditions** shall be required for the life of the project:
 - 1. This special use permit shall remain in effect until or unless it is revoked or is inactive for one year. This permit shall be determined to be inactive

unless a letter is received each year on or about the date of approval of this special use permit, from the applicant, to the Director of Planning and Development stating that the facility is being utilized in accordance with the conditions of approval and including a brief summary of typical activities.

2. Failure to comply with the conditions of approval shall render this approval null and void. Compliance with this condition shall be determined by Planning and Development.
3. The applicant and any successors shall direct any potential purchaser/operator of the site and/or the special use permit to meet with Planning and Development to review conditions of approval prior to the final sale of the site and/or the special use permit. Any subsequent purchaser/operator of the site and/or the special use permit shall notify Planning and Development of the name, address, telephone number, and contact person of the new purchaser/operator within 30 days of the final sale.
4. Operation of this facility shall be limited to the hours between 6:00am and 6:00pm, daily.
5. All operations of this facility shall comply with the Special Review Consideration responses as outlined in the staff report to the Board of Adjustment Commission dated November 19, 2010.

Washoe County Engineering and Capital Projects

2. The following conditions are requirements of Engineering, which shall be responsible for determining compliance with these conditions.

Contact Name – Leo Vesley, 775.328.2040

- a. The applicant/owner shall obtain from Building and Safety a building/grading permit for construction of this project.
- b. A complete set of construction improvement drawings, including an on-site grading plan, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), and slope stabilization. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent property.
- c. The applicant shall obtain from the Nevada Division of Environmental Protection a Stormwater Discharge Permit for construction and submit a copy to the Engineering Division prior to issuance of a grading permit.
- d. The applicant shall complete and submit the Construction Permit Submittal Checklist, the Performance Standards Compliance Checklist and pay the Construction Stormwater Inspection Fee prior to obtaining a grading permit. The County Engineer shall determine compliance with this condition.

- e. A grading bond of \$1,500/acre of disturbed area shall be provided to the Engineering Division prior to issuance of a building/grading permit.
- f. The applicant shall provide the engineering division copies any necessary easements for access.
- g. All disturbed areas left undeveloped for more than 30 days shall be treated with a dust palliative.

Washoe County Water Resources

- 3. The following conditions are requirements of Water Resources, which shall be responsible for determining compliance with these conditions.

Contact Name – John Cella, Engineering Tech, 775.954.4600

- a. Water rights in accordance with Article 422 shall be dedicated to Washoe County prior to building permit approval. The water rights must be in good standing with the State Division of Water Resources and shall reflect the point of diversion, place of use, and manner of use satisfactory to Water Resources. The subject water rights will then be made available to the Applicant via a 99-year water lease agreement at no cost to the Applicant.

Washoe County District Health Department

- 4. The following conditions are requirements of the District Health Department, which shall be responsible for determining compliance with these conditions. The District Board of Health has jurisdiction over all public health matters in the Health District. Any conditions set by the District Health Department must be appealed to the District Board of Health.

Contact Name – Jim Shaffer, 775.785.4599

- a. If the landscape treatment is altered such that the entire slope is armored, all voids will be filled with mixed aggregate $\frac{3}{4}$ inch D size to 1/12 inch a depth of 3-4 inches prior to or after the stabilization process.

Truckee Meadows Fire Protection District

- 5. The following conditions are requirements of the Truckee Meadows Fire Protection District, which shall be responsible for determining compliance with these conditions.

Contact Name – Amy Ray, Fire Marshal 775.326.6005

- a. Applicant shall provide a method for the Truckee Meadows Fire Protection District to connect to on site water for fire protection. Plans shall be submitted through Washoe County Building and Safety for approval.

Applicant must comply with currently adopted fire and building codes and ordinances.

*** End of Conditions ***

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;
5. Effect on Military Installation: The variance will not have a detrimental effect on the location, purpose and mission of the military installation; and
6. Reasoned Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

AGENDA ITEM 2

PUBLIC HEARING: Special Use Permit Case No. SB10-010 (Sierra Fire Protection District) – Request to install and operate two 25kW wind turbines at Sierra Fire Protection District Station #36 as authorized in Article 326 of the Washoe County Development Code. The address of the project site is 13500 Thomas Creek Road, Reno. The parcel is located on the northeast corner of the intersection of Arrowcreek Parkway and Thomas Creek Road. The 3.21 acre parcel is designated Low Density Suburban (LDS) in the Southwest Truckee Meadows Area Plan, and is situated in a portion of Section 24, T18N, R19E, MDM, Washoe County, Nevada. The property is located in the Southwest Truckee Meadows Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN 049-312-22)

Chair Horan reiterated the item had been withdrawn and opened the public hearing.

Bob Ackerman spoke in support of the project should something similar, such as an expansion, come before the Board in the future.

Chair Horan closed the public hearing.

AGENDA ITEM 3

PUBLIC HEARING: Special Use Permit Case No. SB10-011 (Palomino Valley General Improvement District - PVGID) – To develop a public service yard, a permanent aggregate facility and a water truck fill station (Utility Services use type) as authorized in tables 110.302.05.2 and 110.302.05.3 of the Washoe County Development Code. The parcel is ±42.53 acres in size and is currently designated General Rural Residential (GRR), an application for a Regulatory Zone Amendment to change to General Rural (GR) is pending at this time. The parcel is located within the Warm Springs Area Plan, and is situated in a portion of Section 33, T23N, R21E, MDM, Washoe County, Nevada. The property is located in the

Warm Springs Citizen Advisory Board boundary and Washoe County Commission District No. 4. (APN: 077-350-02)

Chair Horan opened the public hearing.

Mr. Pelham reviewed the staff report dated November 19, 2010. He explained the portion of the permit relating to the aggregate pit had been continued to the February meeting due to a noticing error.

Chair Horan asked if the continuance would require a vote from the Board. Ms. Robinson said it would and DDA Edwards suggested it be included as part of their overall vote on the case.

Mr. Pelham explained that special use permits (SUP) were used to examine a project for impacts and to minimize or eliminate those impacts. The uses requested for the property were considered high-impact and the department had received complaints. The required zoning change for the requested uses had been approved by the Planning Commission and was awaiting final approval by the Board of County Commissioners. Any action taken to approve the SUP by the Board of Adjustment was contingent upon the adoption of the zoning change.

Mr. Pelham explained the property had been in use as an aggregate facility since the 1970s and was granted an SUP in 1993. That had expired in 1996 and since then improvements had been made to the site for operations and the water truck fill station. He showed photographs demonstrating the increase in size and scope of the facility from 1997 to present. He noted the applicant had acknowledged they were operating without the proper permits and have agreed the administrative process currently being pursued is the best course of action to bring the facility into conformance.

Mr. Pelham displayed a graphic showing the 33-foot right of way and access easement adjacent to Wayside Road. He emphasized the public had the right to traverse the entire width. Excavation had occurred within the right of way. Conditions had been written requiring the applicant to bring the surface up to the elevation of the travelway and to create a buffer through fencing and landscaping to mitigate dust and visual impacts.

Mr. Pelham went on to explain landscaping was a basic requirement for all civil projects and 20 percent of the area is required to be landscaped. He anticipated the applicant would apply for a Director's Modification of Standards to have that amount reduced. Minimally they would be required to bring the area to its natural condition, which is impossible since the material is gone. Therefore, some landscaping would be necessary.

Mr. Pelham noted the applicant did have a dust control permit with the health department, but that did not apply to the roadways as Air Quality does not have authority to enforce dust control on roadways.

Mr. Pelham explained minor modifications he had made to proposed Condition 1f which would read as follows: "The applicant shall restore the right of way and slope adjacent to wayside road such that there is no slope greater than 5% within the right of way and required front yard setback area. The front yard setback area shall be revegetated and trees shall be planted in clusters at a frequency of not less than one tree for each 25 feet of frontage. Fencing

as defined in condition 1g, below shall be installed at the front yard setback line along Wayside Road and shall connect to the fencing required by condition 1g, below.”

He noted a letter had been sent to staff and the Board members on November 30 requesting elimination or substantial modifications to several of the proposed conditions. The applicant wished to eliminate Condition 1f altogether as well as the requirements for the fencing and screening. They also wished to eliminate Condition 1j which required benches to mitigate the visual and erosion impacts of steep slopes. Condition 1k required the tanks needed to be inside the fenced area and out of the right of way and was also requested to be eliminated, along with Condition 1c, which requires recurring review of the project.

Mr. Pelham presented a modified version of the proposed motion, pointing out the language approved the public service yard and water truck fill station and allowed for the continuance of the hearing of the aggregate facility to the next meeting.

Member Harcinske asked if PVGID was a county entity or a utility company. Mr. Pelham replied they are a county entity, created and funded by a special assessment district charged with road maintenance within the Warm Springs Area Plan (WSAP). In answer to a question posed by Chair Horan, Mr. Pelham verified PVGID was authorized by Nevada Revised Statutes (NRS). He explained that any county department would be subject to the same process and substantially similar conditions as any private company or individual doing the same thing.

Member Harcinske requested Mr. Pelham identify for the Board which conditions related specifically to the aggregate pit so they could be disregarded for the current hearing. DDA Edwards recommended the motion included a catchall statement which included the conditions to the extent they apply to the water truck fill station and the public service yard, but not the aggregate pit.

Applicant Harold Shotwell, president of PVGID, presented a brief overview of the history of the project. He pointed out PVGID was a county entity mandated to maintain the primarily dirt roads in Palomino Valley. The entity had been created in 1973 and purchased the property in question in 1989. The material being pulled from the site was optimal for the uses required and would be expensive to obtain elsewhere.

Mr. Shotwell stated he took office in 1999 and it never occurred to him the operation would be illegal after so many years. When they moved the equipment yard to the Wayside location in 2000, they obtained permits through the county building department for power, so they had no reason to believe they shouldn't be there. He noted they were operating under a temporary permit until the applications are approved and had provided documentation regarding safety improvements to the satisfaction of the Fire District and Community Development.

Larry Johnson, PVGID Board member, provided a brief overview of his expertise in matters of road construction and maintenance. He explained approximately 1,000 people depended on PVGID for road maintenance and that the aggregate facility was an integral portion of that.

Mr. Johnson opined the staff report was inaccurate in some areas. He stated the slope of the wall of the pit was not as steep as was stated in the staff report and there was a berm preventing an automobile from accidentally driving over the edge. He noted one of the conditions required asphalt or concrete in areas of the yard but countered that some of the

equipment was tracked and could not be operated on those types of surfaces. PVGID had suggested an alternative type of material for these areas.

Chair Horan requested Mr. Johnson explain which condition he was referring to as he offered suggestions for alternatives or elimination.

Mr. Johnson referred to Condition 1e which limited the slope of the quarry to 15 percent, noting that many commercial quarries exceed that. Condition 1g requiring fencing around the entire facility was also in excess of what was typically required for a commercial operation. The SUP application had requested all cut slopes to be at a 3:1 ratio so they did not intend to request a waiver to achieve that.

Mr. Johnson went on to state Condition 1j requiring horizontal benches 10 feet in width every 15 feet of vertical slope was overly restrictive and quoted an excerpt from the building code which stated slopes that are less than 3:1 need not be terraced. He noted the material at the pit is erosion-resistant and the revegetation design requires all areas to be hydroseeded.

Mr. Johnson expressed his concern with Condition 3a which required PVGID dedicate their water rights to the county. He agreed it was appropriate for land development but not the GID, as certificated rights held marketable value as did the land itself.

Mr. Shotwell exhibited photos showing the shallowness of the slopes. He stated they could not agree with the perimeter fencing and landscaping condition. The cost would be too extreme for a government agency supported by taxpayer dollars. They felt that the existing yard, with slats in the fence to shield the equipment from view and reseeded with natural vegetation of exposed areas adjacent to residences would be sufficient.

Mr. Shotwell went on to reiterate they did not agree with the requirement to recontour the portion of the property adjacent to the roadway. It would be prohibitively expensive and cause them to have to redesign the operation to accommodate it.

Member Toulouse disclosed he had known and worked with Mr. Johnson for many years but did not feel he needed to recuse himself.

Mr. Johnson reiterated PVGID was taxpayer-funded and people clamored for their services. Funds spent on things such as landscaping would no longer be available to be spent serving their mission.

Member Cieri asked Mr. Shotwell asked if there were other sources of revenue other than taxpayer dollars and he replied there were occasional small infusions. He explained approximately half of their income came from the county General Fund and the other half from a special tax paid by the residents. Member Cieri asked how much went to expenses and Mr. Shotwell replied all except an emergency reserve. Discussion ensued regarding the anticipated expenses for fencing and landscaping being approximately \$80,000. Additionally, land value, therefore tax revenues, would be decreasing in the upcoming years.

Chair Horan reminded the speakers the time was limited to three minutes.

Katherine Snedegar shared her opinions regarding actions of the county and why the PVGID project should be exempt from conditions. Raymond Johnson expressed his support of

the operation and opined it was not a problem to the majority of the neighbors. He suggested that if the people who had built there recently had a problem with the pit they should not have done so as it had preceded them by many years.

Marc Colosimo opined the project was more of a mining operation than an aggregate pit and was a visual blight as well as being unsafe. He requested a condition requiring PVGID to control road dust as they moved into and out of the facility. Member Toulouse asked if Mr. Colosimo was aware the pit was in existence at the time he built his residence. Mr. Colosimo indicated he had been aware of it but objected to the increase in size and scope.

Cathy Glatthar addressed the screening, citing Mr. Pelham's reference to the project as being highly compatible with land uses, which requires little to no screening or buffering according to code. She opined it would cost more than the \$80,000 estimated by Mr. Shotwell and it would make the property more, not less visible. She stated PVGID was in agreement with the requirement for 3:1 slopes, but not the benches. She also clarified they did not object to the five-year aggregate pit review, just the annual Community Development review.

Cindy Colosimo stated she was a resident living close to the pit and the excess dust affected her health. She suggested there may be unknown particles in the dust such as arsenic and requested they test a sample. She noted they had planted over 50 trees and bushes to control the dust.

Member Harcinske asked if building permits were obtained for the structures on the property. Mr. Shotwell explained there were no permanent structures so no permits were required.

Member Cieri and Mr. Shotwell discussed the fact PVGID was responsible for 96 miles of roadway maintenance. The 21 acre feet of water rights they own just manages to cover the needs of the organization. The pit is used exclusively by PVGID and Wayside Road has been treated for dust. Portions of the pit area are treated as well. Mr. Shotwell acknowledged there was dust from the screening process.

DDA Edwards reminded the Board that the aggregate pit portion was not under consideration at this meeting.

Mr. Shotwell noted the speakers in opposition live on the corner of Wayside and Grass Valley which is southwest of the pit area. The prevailing winds are typically from the west, which would direct the dust away from their house.

Member Toulouse stated after trying to separate the pit operations from the others, some of the applicant's suggestions made sense. He would still be in favor of some sort of screening in order to alleviate some concerns by citizens. He stated he was in favor of granting the SUP with the conditions as specified in the applicant's proposal, excluding the quarry operation.

Member Toulouse excused himself and left the meeting at 3:39 p.m.

Member Harcinske asked for verification that the organization that maintains the roads was being required to reconstruct the portion of the road in front of the facility. She asked if the road were up to county standards, and if not, how did it get to be in that condition?

Mr. Pelham explained the condition requiring them to restore the width of the right of way and the front yard setback was a result of extraction of material within the right of way. The roadway is approximately 16 feet wide, not currently the full width of the right of way.

Member Cieri asked if any of the roads in Palomino Valley met county standards and Mr. Pelham replied he would not be qualified to answer the question.

Member Harcinske asked if fencing for only the utility area rather than the entire property been considered. Mr. Pelham replied that fencing currently existed and if the Board wished, that option could be considered. He noted the requirements being applied were standard to any civic operation, which is what this project is. He explained there were two ways to alter the landscaping requirements, a director's modification or a variance, and PVGID had not submitted a variance application. Staff had recommended they submit an application for a director's modification to request reductions in the amount of required landscaping and a phased approach.

Mr. Pelham pointed out there were certain requirements under the code. If all of the conditions were removed, the requirements would revert back to all the conditions that are standard to the code, which are actually substantially more than is suggested in the staff report. If the screening and landscaping conditions were removed, they would still have to get a director's modification or a variance or they could meet the basic requirements of the development code for a civic use type.

Member Cieri asked if slats in the existing fence would accommodate the request for yard area fencing. Mr. Pelham replied that was a possibility if the Board chose to craft the conditions in that manner. The suggestion did not meet the standards as presented in the staff report.

Chair Horan asked Mr. Pelham to address the discrepancies brought up by Mr. Johnson. Mr. Pelham pointed out that part of the application had indicated 4:1 slopes, which more than meets the 3:1 slope standard. What they did not address was the slope adjacent to Wayside Road. That was being recommended to be restored to a maximum slope of 3:1 with horizontal benches. He reiterated that condition was within the Board's purview to change if they felt it was overly restrictive.

Mr. Freund noted the development code does not include standards for dirt roads or unpaved surfaces. Roads constructed to county standards are paved.

Member Cieri opined maintaining 96 miles of roadway was quite expensive and asked what condition they were in. Mr. Johnson explained that, decades ago, the county did have standards for gravel roads, but none of the roads in Palomino Valley met those standards. He stated they do not have the budget to bring the roads up to even what those standards were. He agreed the slope by the road needed to be flattened to a 3:1 ratio, but they took exception to the idea of filling it to a five percent slope. He provided examples of other roads that did not meet those standards. He also noted they were willing to put slats in the existing fence but to surround the entire property with fencing was cost prohibitive and they needed those dollars.

Mr. Colosimo asked the Board to consider the fact staff was a neutral party and accept their recommendations.

Chair Horan closed the public hearing.

Member Cieri stated he was in consensus with using the improvements suggested by PVGID. The entity is commissioned to provide service on 96 miles of road, and with a limited budget which will be getting smaller every year, the financial burdens would cause hardship for all of the citizens out there not just the people living next to the pit. His view of the requested exceptions was they were not severe.

Member Marcinske stated she did not like to say that county facilities could be bad neighbors and not have to comply with the requirements that anybody else would have to. Other similar entities had gotten modifications but had complied with screening and landscaping requirements. She expressed concern about the roadway issues and did not agree with eliminating the screening requirements. She did not feel it was appropriate to ask them to fence the entire property if the aggregate portion of the project was not being heard.

Member Wideman noted the first issue of contention was whether or not the GID felt it needed to comply with the county's regulations at all. Even if it felt it did not need to he gave them credit for working through the process and be practical in its approach. He credited staff with carefully considering the conditions and attempting to apply the rule of law in a careful and considered way.

Member Wideman went on to say they seemed to be in the middle of a disagreement between two public entities, both attempting to provide service in the common public good as they see it within their realm of influence. It was unfortunate that one entity of government was put in a position to place conditions on another entity that would break its budget. He wondered aloud if by doing that they were helping the citizens in that area with their roads. Being moved by the practicality of the applicant, he favored approval of the conditions as proposed to be amended by PVGID.

Chair Horan agreed with the members about being caught between the two entities and trying to do the right thing for all concerned. He felt staff was being a bit overly restrictive in their attempts to comply with regulations. He expressed concern with attempting to separate out what was applicable to the aggregate pit versus the fill station and utility yard. He asked staff to have a conversation with the GID and see if they could reach a compromise.

Chair Horan called a recess for 20 minutes. Mr. Pelham expressed his willingness to have that discussion but requested direction from the Board. Chair Horan stated he felt the common ground was more towards what the GID proposed. He reiterated they should focus on the conditions not related to the aggregate pit.

The Board recessed at 4:00 and was called to order at 4:20.

Mr. Shotwell requested a continuance of the entire item to the February meeting as the issues were too integrated to discuss separately.

Member Marcinske asked if the temporary permit would allow essential operations to continue during that time and Ms. Robinson stated it would.

Chair Horan reiterated the Board's position was that both parties had valid positions and it hoped they could come to an agreement. He announced the item would be continued time certain to the meeting of February 3, 2011 at 1:30 p.m.

OTHER ITEMS

Ms. Robinson wished the Board and attendees a Happy Holiday.

ADJOURNMENT

There being no further business to come before the Board of Adjustment, the meeting adjourned at 4:22 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Board in session on February 3, 2011

Kimberly H. Robinson, MUP
Secretary to the Board of Adjustment



Warm Springs Citizen Advisory Board

MEMORANDUM

To: Bonnie Weber, Commissioner
From: Allayne Donnelly-Everett, Administrative Recorder
Re: Amendment of Conditions AC13-012 PVGID
Date: January 28, 2014

Amendment of Conditions Case No. AC13-012 (Palomino Valley General Improvement District) – Larry Chesney introduced the request to amend condition 1i of Special Use Permit Case Number SB10-011 to extend for one additional year, the timeframe for the re-vegetation to achieve a 50% minimum vegetative coverage to the graded areas of the Palomino Valley General Improvement District facility. The 42.53 acre parcel is located at 5105 Wayside Road in the Warm Spring Area, Assessor's Parcel No. 077-350-02. The Master Plan Category is Rural and the Regulatory Zone is General Rural. **MOTION:** Jeanne Herman moved to recommend denial of AC13-012 Palomino Valley General Improvement District as presented and that the requirement be eliminated. Thomas Prentice seconded the motion. The motion carried unanimously. Staff Representative, Trevor Lloyd, Senior Planner Washoe County Community Services Department. 775-328-3620. e-mail: tlloyd@washoecounty.us Meeting Date: February 6, Board of Adjustment.

Comments and Concerns

- Katherine Snedigar stated that staff set a boundary for GRR when it was GR which includes the GID facility. It is a waste of 'our' GID money to try to grow landscape for a year when the original landscape did not grow.
- Larry Chesney stated that planting landscape in Palomino Valley to make the GID look pretty is kinda ridiculous. Any money spent on landscape is money that would not be spent on roadways.
- Meeting conditions of the permit takes funds away from maintaining roadways.
- There were no comments in support of the proposed amendment.

cc: Larry Chesney, Chair
Sarah Tone, County Liaison
Nancy Leuenhagen, Community Relations Manager
Andrea Tavener, Program Coordinator

OFFICIAL NOTICE OF PUBLIC HEARING

DATE: January 24, 2014

You are hereby notified that the **Washoe County Board of Adjustment** will conduct a public hearing at the following time and location:

1:30 p.m., Thursday, February 6, 2014
Washoe County District Health Department Conference Room
1001 East Ninth Street, Building B, Reno, NV 89512

RE: **Public Hearing: Amendment of Conditions Case Number AC13-012 (Palomino Valley General Improvement District)** – To amend Condition 1i of Special Use Permit Case Number SB10-011 to extend the timeframe for the re-vegetation to achieve a 50% minimum vegetative coverage to the graded areas of the Palomino Valley General Improvement District facility for one additional year.

- Applicant/Owner: Palomino Valley General Improvement District (PVGID)
- Location: 5105 Wayside Road
- Assessor's Parcel Number: 077-350-02
- Parcel Size: 42.53 Acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: Warm Springs
- Citizen Advisory Board: Warm Springs/Rural
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 5 – Commissioner Weber
- Section/Township/Range: Sec 33, T23N, R21E, MDM,
Washoe County, NV
- Staff: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
775.328.3620; tlloyd@washoecounty.us

As an owner of property in the vicinity, you are invited to present testimony relative to these matters.

To access additional information about this item, please visit our website at www.washoecounty.us/comdev/, choose **Boards and Commissions**, then **Board of Adjustment Agendas, Staff Reports, Minutes and Roster**. A staff report related to this public hearing will be posted on Friday, six days prior to the meeting.