

O. 775.823.2900
One East Liberty Street
Suite 300
Reno, NV 89501-2128
lewisroca.com

Garrett D. Gordon
Partner
Admitted in Nevada
775.321.3420 direct
775.321.5569 fax
GGordon@lewisroca.com



June 30, 2021

VIA E-MAIL (JOLANDER@WASHOECOUNTY.US)

Chair Kristina Hill & Honorable Board Members
Board of Adjustment
Washoe County
1001 East Ninth Street, Building A
Reno, Nevada 89512

RE: Opposition to Agenda Item 9E: Tailwater Ranch

Dear Chair Hill and Honorable Board Members:

I. INTRODUCTION

This office represents a group of property owners ("Neighboring Owners") who live immediately adjacent to and in the area surrounding 145 Ox Yoke Lane ("Property"), where a commercial equestrian center is proposed to be constructed despite significant flaws which render the use incompatible with the site and detrimental to the surrounding area (the "Incompatible Use Proposal"). This letter sets forth the legal basis for denial of the Incompatible Use Proposal, namely that the Property has no legal means of access for a commercial use, and that the Incompatible Use Proposal would create a number of significant issues including groundwater contamination, nuisance conditions, fire safety concerns, and harm to neighboring uses. Accordingly, the Incompatible Use Proposal does not support the required findings of approval set forth in Washoe County Code ("WCC") § 110.810.30 and must be denied. The Neighboring Owners respectfully request that the Board of Adjustment deny this application.

Please also be advised that a request for an injunction related to this matter has been filed in Second Judicial District Court,¹ which primarily addresses two issues. First, the private easement cannot be increased in burden for a commercial enterprise. Second, the location of the intended barn will interfere with the natural drainage and ditch. This Body should deny the special use permit application on the merits, or, alternatively should continue the hearing on this matter until after the District Court issues a ruling regarding whether the private lane may be used for a commercial use and if the natural drainage and ditch may be blocked by this use.

///

///

¹ See Verified Complaint for Declaratory and Injunctive Relief, filed on June 30, 2021, attached hereto as **Exhibit "A"**.

II. ANALYSIS

The Incompatible Use Proposal calls for commercial training, boarding, and rehabilitation of up to 25 horses at a time on a residential property in the center of a residential neighborhood. These uses would be open to the public 7 days of week during all daylight hours, and likely would require staff to attend to stables and issues outside of daylight hours. Additionally, the use proposes retail sales of horse supplements. The application indicates that it will provide several commercial structures, including an office and restrooms. Although the application states that the existing landscaping will remain in place, it is certain that grazing of the horses will deplete existing grass and vegetation, which shall render the environment to dust. This Incompatible Use Proposal will thus be an intensive alteration to the Property and the neighborhood as a whole.

Specifically, at least three of the five required findings of approvals set forth in WCC § 110.810.30 cannot be met. With respect to required improvements, see WCC § 110.810.30(b), the Incompatible Use Proposal does not possess the adequate roadway improvements, sanitation, and drainage facility to support this commercial use, nor does the application indicate that these requirements will be met. Moreover, the site is not physically suitable for this type of development, as the proposal's location will create a number of unsafe and nuisance conditions to the detriment of the Neighboring Owners. See WCC § 110.810.30(c). Finally, the issuance of a special use permit for this purpose will be significantly detrimental to the health, safety, and welfare of neighbors, has a high potential for increasing flooding damage to neighboring properties, and will be a major detrimental change to the character of the area by providing a commercial use in the center of a purely residential subdivision. See WCC § 110.810.30(d).

1. **There is no general public access permitted over the private easement that would be utilized for access to this commercial development.**

This proposed use, if approved, will require access from a private easement on the private road called "Ox Yoke Lane", which is part and parcel of private property owned by Edward J. Smith. Access on Ox Yoke Lane is limited to reasonable usage by residential properties and for public utilities. It is undisputed that the private easement is not owned by Washoe County and that the County does not maintain Ox Yoke Lane. We understand that representatives of the County Surveyor's Office have taken the position that the road is not limited to residential uses because the initial documents creating the easement did not state that the access easement was for residential purposes only. However, upon information and belief, there have never been commercial uses located on Ox Yoke Lane, and there can be no serious argument that the easement was ever intended for commercial use.

Indeed, Mr. John B. Rhodes has submitted a Declaration which explains the history of the easement.² Ox Yoke Lane had been erroneously offered for dedication as a public road to Washoe County in 1987, but the County rejected the dedication. In 2004, Mr. Rhodes amended the applicable parcel map to indicate that Ox Yoke Lane was not intended to be offered for dedication, and further indicated that Ox Yoke Lane was intended to be designated as a "Private

² The Declaration of John B. Rhodes is attached hereto as **Exhibit "B"**.

Road and Public Utility Easement” for private access only – certainly not for access by the general public to frequent a commercial establishment.

The Supreme Court of Nevada has explained that:

an easement must be construed strictly in accordance with its terms in an effort to give effect to the intentions of the parties. Generally, easements are construed strictly in favor of the owner of the property. A party is privileged to use another’s land only to the extent expressly allowed by the easement.

S.O.C., Inc. v. Mirage Casino–Hotel, 117 Nev. 403, 408, 23 P.3d 243, 246-47 (2001) (footnotes omitted) (emphases added). Thus, the scope of an easement must closely follow the intent of the property owner, and any use of the easement must be reasonably related to the easement’s purpose.

The current owner of Ox Yoke Lane, Mr. Edward J. Smith, has submitted a Declaration which indicates that “[t]he residents along Ox Yoke Lane may use the easement across [his] land for private use only” and further states that he “do[es] not consent to any commercial use occurring over Ox Yoke Lane” due to the increase in “traffic, noise, and wear of Ox Yoke Lane”.³ This understanding of the private usage limitation on the easement is further confirmed by Mr. Robert Floyd, a resident who lives on Ox Yoke Lane, who has indicated by Declaration that Ox Yoke Lane is a “private land – not a public road” and that commercial usage of the easement would be contrary to the scope of the easement.⁴

Mrs. Jessica Hodges and Mr. Taylor Hodges, who also live on Ox Yoke Lane, have indicated that access to the road is not available to the general public.⁵ As Mrs. Hodges explains:

I am a licensed Nevada Realtor and I own an interest in a title company. After learning of the requested change in zoning for an equestrian business, I searched the CCRs, parcel maps, and all recorded documents. My title officer and I located the following: Ox-Yoke Lane is a "private road" provided by John Rhodes parcel #017-400-35 to parcel numbers 017-400-34, 017-310-23, and 017-310-24. The easement is currently located on parcel 017-400-35 owned by Edward Smith. The recorded easement documents and parcel maps do not show or identify APN 017-310-21 as being granted legal access to Ox Yoke for personal use, much less commercial use. Therefore, the proposed development at APN 017-310-21 do not have the legal right to use the Ox-Yoke Lane for any purpose including the requested commercial business.⁶

³ The Declaration of Edward J. Smith is attached hereto as **Exhibit “C”**.

⁴ The Declaration of Robert Floyd is attached hereto as **Exhibit “D”**.

⁵ The Declarations of Jessica Hodges and Taylor Hodges are attached hereto as **Exhibit “E”**.

⁶ *Id.*

Accordingly, there may be no legal access for commercial uses to the Property. Without legal access to the Property, the Incompatible Use Proposal will not be able to meet two required findings of approval, see WCC § 110.810.30(b)-(c).

Further, agency comments from the Truckee Meadows Fire Protection District (“TMFPD”) indicate that fire apparatus access road shall be required for every facility, which shall be capable of supporting 80,000 lbs. Fire District apparatus, and must meet certain minimum widths.⁷ Access to Ox Yoke is only available from Rhodes Road, which upon information and belief, is not an approved fire apparatus access road. There is no indication that Ox Yoke Lane is an approved fire access road or that it could support 80,000 lbs. Further, TMFPD states that “[d]ead-end fire apparatus access roads in excess of 150 feet shall be provided with width and turnaround provisions”.⁸ This does not presently exist and the applicant has provided no indication that it will comply with these requirements. Finally, the applicant has offered no evidence

The necessary roadway improvements do not presently exist and the Applicant has provided no indication that it will be able to create such improvements other than through Ox Yoke Lane. Without access, the site is not suitable for commercial purposes, failing to meet another finding of approval. Consequently, the Board of Adjustment should reject this application on this basis alone.

2. The Incompatible Use Proposal will create issues related to the groundwater wells relied upon by members of the community.

This proposal also fails to consider the impact to surrounding residential uses, particularly with respect to the groundwater that will necessarily be impacted by introducing nitrates and other harmful chemicals to the soil by equine excretions and chemical treatments to mitigate dust. Residents in this area rely on groundwater wells to provide water for their residential uses. The application merely states that “there will be no ground water contamination as horses will not be pastured in flood irrigation areas.”⁹ However, the entire area where the barn and stalls are proposed to be constructed is located on the flood irrigation meadow. Indeed, drainage ways can be plainly seen from satellite images available on Google Earth running through the Property. Merely because the applicant has stated otherwise, either to mislead staff or due to ignorance of the basic natural features on the property, does not indicate that there will be not be ground water contamination.

Moreover, as the 25 horses will apparently be located on the Property 7 days per week, 365 days per year, it is a near certainty that all areas used for pasture and training will have all vegetation reduced to dust in a short period of time. In order to avoid air quality issues, the dust must be mitigated by chemical treatment or by regularly spraying with water. In the particularly hot summer months, watering will not be feasible due to constant evaporation. Thus, the applicant will necessarily contaminate the soil with dust suppression chemicals that will seep into groundwater used by residential wells used for drinking, bathing, and cleaning. This is an

⁷ Staff Report for WSUP21-0018 (“Staff Report”), Ex. B (agency comments).

⁸ *Id.*

⁹ Staff Report at 5.

inacceptable hazard to the community which renders this application incompatible with the required finding that “[i]ssuance of the permit will not be significantly detrimental to the public health, safety or welfare”. WCC § 110.810.30(d).

3. The Incompatible Use Proposal will create several nuisances and unsafe conditions that cannot be mitigated in any manner sufficient to allow this project to move forward.

The Incompatible Use Proposal will create a number of nuisances and unsafe conditions that will affect the neighboring property owners and the surrounding neighborhood, including with respect to flooding, pests, dust, noise, traffic, lighting concerns, and the peaceful enjoyment of property. These nuisance and unsafe conditions require this Board to deny the application on that basis alone. Further, these circumstances would come to fruition specifically because the site is incompatible with the proposed use. See WCC § 110.810.30(c)-(d).

This area is already subject to flooding. This condition will be exacerbated by the introduction of new structures and the arena to the ditch system. Mr. Russell James, who lives on Rhodes Road, provided a written statement and photographs which indicate how water runoff from the subject Property drains to his property.¹⁰ The neighbors respectfully request that this Board do not allow the introduction of new elements which will exacerbate this issue.

The Incompatible Use Proposal provides no indication of how the applicant will control dust or manage a pasture to avoid die off of vegetation as is typical for equestrian centers. Indeed, every equestrian center in this area are characterized by barren landscapes that are used for training and boarding horses.¹¹ As Mr. Rhodes explained, “[t]he wear on the land from a herd of commercial horses will eliminate the grasses on the meadow. The [barren] pastureland will allow dust to become airborne and cause further burden to downwind property owners.”¹² In their sworn statements, Mr. Jeffery Fisher and Mrs. Lynda Fisher have explained that the existing equestrian centers in the area, including one approximately “3/4 of a mile [from their] home which already “produce[s] air borne dust/pollutants along with ground up feces blowing in the wind”.¹³ As Mrs. Fisher explains:

[f]rom their operation [at the existing equestrian centers], we regularly hear noise, experience feces dust, dirt dust, and smells on a reoccurring basis. Tailwater Ranch proposes []to build an open-air arena within an estimated 30 feet from my property line and 100 feet from our kitchen. With knowledge of what I endure from the operation of the horse business 3/4 mile away I am sickened realizing the increased burden including flies and smells that will result from the proposed

¹⁰ Sworn Statement of Russell James is attached hereto as **Exhibit “F”**.

¹¹ See photographs of Reno Tahoe Equestrian Center and Brownlee Equestrian, attached hereto as **Exhibit “G”**.

¹² Exhibit “B” at ¶ 16.

¹³ See Declarations of Jeffery A. Fisher and Lynda Susan Fisher, attached hereto as **Exhibit “H”**.

business 100 feet from my kitchen. My health will be in jeopardy and my quality of life will be destroyed.¹⁴

With respect to dust, there is not even any requirement being imposed on the applicant to provide a fugitive dust abatement plan, other than an unspecific condition that the facility “manage any dust control issues so as to not impact neighboring properties.”¹⁵ However, the applicant has never provided any indication of how such management would be achieved nor if mitigation at this close proximity is even possible to prevent an impact on neighbors.

Additional Neighboring Owners, Janet Rafferty and Kimberly Olsen-Wilson have expressed their serious concerns with respect to the potential impacts on traffic, noise, and lighting.¹⁶ The applicant has provided no indication of how it will mitigate traffic impacts or provide upkeep of the private road. Even if the applicant takes steps to minimize noise and lighting, it cannot be disputed that there will be additional noise and lighting that will be disruptive and that do not exist today.

III. CONCLUSION

In summary, the Board of Adjustment should deny the Incompatible Use Proposal as at least three of the required findings cannot be made. The project does not have, nor does it propose, adequate improvements to support the use. The site is not suitable for the development as it will create unsafe and nuisance conditions. Issuance of a special use permit would be significantly detrimental to the health and safety of the public, and would prove injurious to adjacent properties. Alternatively, the Board should continue this matter until such time as the pending legal dispute between the Neighboring Owners and the applicant are resolved.

Please do not hesitate to contact this office with any questions.

Sincerely,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

/s/ Michael W. Cabrera

Garrett D. Gordon
Michael W. Cabrera

MWC
Enclosures
cc: Julee Olander, Washoe County

¹⁴ *Id.*

¹⁵ Staff Report, Ex. A (Planning and Building condition “m”).

¹⁶ See Statements of Janet Rafferty and Kimberly Olsen-Wilson, attached hereto as **Exhibit “I”**.

Exhibit "A"

FILED
Electronically
CV21-01220
2021-06-30 11:49:50 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8520495 : csulezic

\$1425
MARK WRAY, #4425
LAW OFFICES OF MARK WRAY
608 Lander Street
Reno, Nevada 89509
(775) 348-8877
mwrap@markwraylaw.com
Attorneys for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

EDWARD SMITH, TRUSTEE OF
THE EDWARD J. SMITH TRUST;
ROBERT T. FLOYD, M.D. and
KIMBERLY OLSEN-WILSON,
TRUSTEES OF THE FLOYD FAMILY
TRUST; JEFFREY FISHER AND
LYNDA FISHER, TRUSTEES OF THE
JEFF AND LYNDA FISHER LIVING
TRUST UTD JULY 25, 2006; STEVE
NOEL; AND RUSSELL JAMES,

Case No.

Dept.

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiffs,

vs.

BENNETT BAUER and DARCY
BAUER, INDIVIDUALLY AND
AS TRUSTEES OF THE BENNET
AND DARCY BAUER FAMILY
TRUST,

Defendants.

COME NOW Plaintiffs Edward Smith, Trustee of the Edward J. Smith Trust,
Robert T. Floyd, M.D. and Kimberly Olsen-Wilson, Trustees of the Floyd Family Trust,

1 Jeffrey A. Fisher and Lynda Susan Fisher, Trustees of the Jeff and Lynda Fisher Living
2 Trust UTD July 25, 2006, Steve Noel and Russell James, by their undersigned attorneys,
3 Law Offices of Mark Wray, and for their Complaint against Defendants Bennett Bauer
4 and Darcy Bauer, individually and as Trustees of the Bennett and Darcy Bauer Family
5 Trust allege:
6

7
8 Jurisdiction

9 1. The Court has jurisdiction of this action in that district courts have original
10 jurisdiction of all actions excluded from the jurisdiction of the justice courts pursuant to
11 Art. 6, §6 of the Nevada Constitution and suits for declaratory relief are excluded from
12 the jurisdiction of the justice courts under NRS 4.370.
13

14 Parties

15 2. Plaintiff Edward Smith, Trustee of the Edward J. Smith Trust, is an
16 individual who since 1989 has owned and resided at 505 Rhodes Road, on the corner of
17 Rhodes Road and Ox-Yoke Lane, Washoe County, Nevada, APN 017-400-35.
18

19 3. Plaintiffs Robert T. Floyd, M.D. and Kimberly Olsen-Wilson, Trustees of
20 the Floyd Family Trust, are individuals, married to each other, who at all relevant times
21 have owned and resided at 180 Ox-Yoke Lane, Washoe County, Nevada, APN 017-400-
22 34.
23

24 4. Plaintiffs Jeffrey A. Fisher and Lynda Susan Fisher, Trustees of the Jeff and
25 Lynda Fisher Living Trust UTD July 25, 2006, are individuals, married to each other,
26 who at all relevant times have owned resided at 157 Cedar Lane, Washoe County,
27 Nevada, APN 017-310-13.
28

1 5. Plaintiff Steven W. Noel is an individual who at all relevant times has
2 owned and resided at 179-1/2 Cedar Lane in Washoe County, Nevada, APN 017-310-12.

3
4 6. Plaintiff Russell James is an individual who at all relevant times has owned
5 and resided at 300 Rhodes Road in Washoe County, Nevada, APN 017-310-14.

6 7. Defendants Bennett Bauer and Darcy Bauer are individuals, married to each
7 other, and Trustees of the Bennett and Darcy Bauer Family Trust UDT Dated May 6,
8 2013, who since October 24, 2019 have owned and resided at 145 Ox-Yoke Lane,
9 Washoe County, Nevada 89521, APN 017-310-21.
10

11 Facts Common to All Causes of Action

12
13 8. Rhodes Road runs east off of the Old 395 south of Mt. Rose Highway in
14 Steamboat Valley, an historically tranquil, rural neighborhood with single family homes
15 on parcels of one or more acres which Washoe County designates as “Low Density
16 Suburban” property.
17

18 9. In 1987, Bryce Rhodes, whose family gave Rhodes Road its name, created
19 Ox-Yoke Lane, by Parcel Map 2148 recorded June 17, 1987.
20

21 10. Ox-Yoke Lane was erroneously offered for dedication to Washoe County
22 as a public road, but the offer was never accepted by the county, and the county has never
23 improved or maintained Ox-Yoke Lane as a public road.
24

25 11. On June 23, 2004, John Rhodes, an attorney and the son and executor of the
26 estate of Bryce Rhodes, amended Parcel Map 2148 to notify all persons by publicly
27 recorded document that Ox-Yoke Lane should not have been offered for dedication to
28 Washoe County and that Ox-Yoke Lane should have been designated as a “Private Road

1 and Public Utility Easement” for private access, as set forth in Parcel Map 4374 recorded
2 April 28, 2005.

3
4 12. Ox-Yoke Lane was created as an easement across privately-owned parcels
5 and was intended to allow private access and public utilities to the dominant estates,
6 which are residences along and at the terminus of Ox-Yoke Lane.

7
8 13. Three residences situated along Ox-Yoke Lane – none of which is the
9 residence of Defendants – are dominant estates having an easement which allows the use
10 of Ox-Yoke Lane for ingress and egress to those properties.

11
12 14. Ox-Yoke Lane has not been used for commercial purposes and was never
13 intended for commercial usage.

14
15 15. On October 24, 2019, Defendants purchased the residence on a 10.89 acre
16 parcel located off the southwestern terminus of Ox-Yoke Lane.

17
18 16. Although the Defendants’ property address is 145 Ox-Yoke Lane, Plaintiffs
19 have not determined whether Defendants’ parcel is actually a dominant estate that
20 benefits from the Ox-Yoke Lane easement.

21
22 17. Defendants have been using Ox-Yoke Lane to access their residence since
23 they purchased the home in October of 2019, but Defendants now intend to use the
24 easement for an entirely different purpose, which is commercial development and
25 operation of a commercial business.

26
27 18. On or about May 8, 2021, Defendants applied to Washoe County for a
28 special use permit to develop their 10.89 acres at the end of Ox-Yoke Lane into a

1 sprawling “Tailwater Ranch & Equestrian Center,” and to use Ox-Yoke Lane as the
2 ingress and egress for their commercial enterprise.

3
4 19. Per their application for a special use permit, Defendants intend to board up
5 to 25 horses and offer “training and rehabilitation” for the horses. The proposed
6 improvements, according to the most recent Washoe County staff report, include a barn
7 to stable 10 horses, with a tack and a feed room. The other 15 horses will be on pasture.
8 Besides the barn, the facilities are proposed to include 12 ft. x 16 ft. paddocks, a 204 ft. x
9 60 ft. outdoor riding arena, a round pen and 6 turn out pastures. A separate adjacent
10 building will house an office and restrooms. The driveway, parking areas and trailer turn
11 around area will be constructed with compact gravel.
12

13
14 20. Defendants’ business plan is to offer training for horses and owners by
15 professional instructors seven days a week, 12 hours each day from 7 a.m. to 7 p.m.
16

17 21. Defendants have announced that they will be staging four “events”
18 throughout the year consisting of non-sanctioned competitions for their clients.
19

20 22. Plaintiffs learned of the application for the special use permit through
21 notices mailed out by the county and word-of-mouth.

22 23. The county staff recommended conditional approval of the special use
23 permit, dependent on Defendants’ compliance with certain conditions.
24

25 24. Neither the application filed by Defendants nor the Washoe County staff
26 report for the special use permit addresses the issue that ingress and egress to “Tailwater
27 Ranch & Equestrian Center” is via a private easement that was not intended for
28 commercial traffic and that its scope is limited to private residential use.’

1 25. A public hearing on the Defendants' special use permit is scheduled for
2 July 1, 2021 before the county board of adjustment.

3
4 26. If "Tailwater Ranch & Equestrian Center" is approved, Ox-Yoke Lane will
5 be used seven days a week as a commercial thoroughfare, at all hours of the day, creating
6 commercial traffic, noise, and lights completely at odds with Ox-Yoke Lane's purpose
7 and historic usage as a private residential lane and destroying the neighborhood's quiet
8 residential character.

9
10 27. Should Defendants' property become a commercial horse ranch, Plaintiffs'
11 homes and families will be subjected to the prevailing odor of horse urine and feces and
12 Plaintiffs will be battling swarms of horse flies and other pests.

13
14 28. Defendants propose to locate their commercial business directly in the
15 middle of natural drainage where water collects throughout the year and where the urine
16 and feces will seep into the ground and surface water, affecting water quality and
17 adjacent downstream property owners.

18
19 29. The name "Tailwater Ranch" is a reference to the drainageway on which
20 Defendants propose to build. "Tailwater" refers to sloped fields that can allow for excess
21 water to run off the field, and discharge to a drainage channel or natural water body.
22 Tailwater can carry pollutants such as silt, fertilizers, pesticides and, in this case, horse
23 feces and urine, to neighboring properties and waterways.

24
25
26 30. Defendants have made it known that they purchased their residentially-
27 zoned property with the intent of converting it into a commercial horse business, and
28 thus, Defendants chose to take the route of permanently altering the residential character

1 of the neighborhood in the vicinity of Ox-Yoke Lane rather than simply purchasing
2 commercial property in another location that is compatible with the business they want to
3 operate.
4

5 31. Defendants' proposed "Tailwater Ranch & Equestrian Center" or any
6 similar commercial use would exceed the scope of and overburden the Ox-Yoke Lane
7 easement and therefore such use of the easement is legally prohibited.
8

9 CLAIM FOR RELIEF

10 (Declaratory Relief and Injunction)

11 32. Plaintiffs incorporate the allegations of the preceding paragraphs of this
12 Complaint by reference herein as though set forth in full at this point.
13

14 33. An actual controversy exists between Plaintiffs and Defendants, in that
15 Plaintiffs contend, and Defendants dispute, that Defendants have no legal right to
16 commercial use of Ox-Yoke Lane for ingress and egress to Defendants' property, that the
17 Defendants' proposed use of Ox-Yoke Lane exceeds the scope of and overburdens the
18 easement, that the construction of Defendants' proposed facilities and alteration of the
19 existing water courses as a result of said construction would disturb water flows and
20 adversely affect Plaintiffs' properties, and that operation of the facility would constitute
21 an actionable nuisance unreasonably interfering with the use and enjoyment of Plaintiffs'
22 residences.
23
24
25

26 34. A judicial declaration of the respective rights and liabilities of the parties is
27 necessary and appropriate.
28

1 35. Plaintiffs' remedy at law is inadequate, in that real property is unique and
2 damages cannot adequately compensate Plaintiffs' loss of the right to use and enjoy their
3 homes.
4

5 36. Defendants are seeking to obtain county approval for "Tailwater Ranch and
6 Equestrian Center" on July 1, 2021 before the County of Washoe's Board of Adjustment,
7 and to use Ox-Yoke Lane to develop and operate a commercial business that exceeds the
8 scope of and overburdens the easement.
9

10 37. Based on the threat of imminent harm to Plaintiffs and to Plaintiffs' real
11 properties, the Court should issue a temporary restraining order, preliminary injunction
12 and permanent injunction restraining and enjoining Defendants, and their agents,
13 servants, employees, representatives, successors and assigns, and anyone acting in
14 concert with them, from:
15

16 (a) using Ox-Yoke Lane for ingress and egress to Defendants' proposed
17 "Tailwater Ranch & Equestrian Center;"
18

19 (b) constructing any structure over the natural drainage;
20

21 (c) altering or obliterating existing water ditches on Defendants' property;
22

23 (d) using Ox-Yoke Lane for a commercial purpose including but not limited to
24 the commencement of the proposed commercial equestrian development.

25 WHEREFORE, Plaintiffs pray:

26 1. For a declaratory judgment that Defendants have no legal right to
27 commercial use of Ox-Yoke Lane for ingress and egress to Defendants' property, that the
28 Defendants' proposed use of Ox-Yoke Lane exceeds the scope of and overburdens the

1 easement, that the construction of Defendants' proposed facilities and alteration of the
2 existing water courses as a result of said construction would disturb water flows and
3 adversely affect Plaintiffs' properties, and that operation of the facility would constitute
4 an actionable nuisance unreasonably interfering with the use and enjoyment of Plaintiffs'
5 residences;
6

7
8 2. For a temporary restraining order, preliminary injunction and permanent
9 injunction restraining and enjoining Defendants, and their agents, servants, employees,
10 representatives, successors and assigns, and anyone acting in concert with them, from

11 (a) using Ox-Yoke Lane for ingress and egress to Defendants' proposed
12 "Tailwater Ranch & Equestrian Center;"
13

14 (b) constructing any structure over the natural drainage;
15

16 (c) altering or obliterating existing water ditches on Defendants' property; and
17

18 (d) using Ox-Yoke Lane for a commercial purpose including but not limited to
19 the commencement of the proposed commercial equestrian development.
20

21 3. For attorneys fees and costs; and
22

23 4. For all other appropriate and other relief.
24

25 *The undersigned certifies that the foregoing document does not contain the Social*
26 *Security number of any person.*
27

28 DATED: June 30, 2021

LAW OFFICES OF MARK WRAY

By

MARK WRAY

Attorneys for Plaintiffs

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Edward J. Smith
EDWARD J. SMITH

Exhibit "B"

Declaration of John B. Rhodes

1. I, John B. Rhodes, am over 18 years of age. I'm a resident of Washoe County. I make the following statements under penalty of perjury. The following statements are based on my personal knowledge.
2. My father, Bryce Rhodes, created Ox-Yoke Lane, in its current configuration, by Parcel Map 2148 recorded 6/17/87. Ox-Yoke Lane was erroneously offered for dedication to Washoe County as a public road, and the offer was rejected by the County at that time.
3. The offer of dedication of was never accepted by the County, and the County has never improved or maintained Ox-Yoke Lane as a public road.
4. I amended Parcel Map 2148 on 6/23/04 (Doc #3057737) to notify all persons by public document that Ox-Yoke Lane should not have been offered for dedication to Washoe County and that Ox-Yoke Lane should have been designated as a "Private Road and Public Utility Easement" for "private" access, as also indicated on Parcel Map 4374 recorded 4/28/05.
5. There was no commercial use of Ox-Yoke Lane at the above times, no future commercial use was intended or foreseen, and Ox-Yoke Lane has never been used for commercial business purposes.
6. The private road was created and intended to allow private access and public utilities to the private residences along and at the terminus of Ox-Yoke Lane.

6/25/21
Date

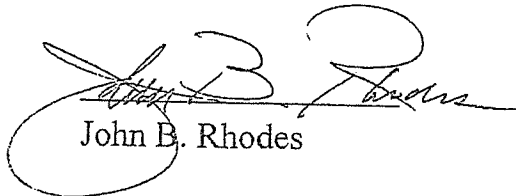

John B. Rhodes

Exhibit "C"

Declaration of Edward J. Smith

1. I, Edward Smith, am over 18 years of age. I'm a resident of Washoe County. I swear under penalty of perjury that the following is true based on my personal knowledge. My home is located at 505 Rhodes Road. I have lived there since about 1989.
2. Ox Yoke Lane is on my property. It is an easement for private use. The residents along Ox Yoke Lane may use the easement across my land for private use only.
3. I do not consent to any commercial use occurring over Ox Yoke Lane. Such use will increase the traffic, noise, and wear of Ox Yoke Lane and increase the use provided for in the easement.
4. I understand that the new residents who purchased a private home at the southwest end of Ox Yoke Lane (Mr. & Mrs. Bauer) intend to start a commercial enterprise at that property. I object to the proposed commercial use which will be accessed over my property which includes Ox Yoke Lane.

6-25-21

Date

Edward Smith

Signature

Exhibit "D"

Declaration of Robert Floyd

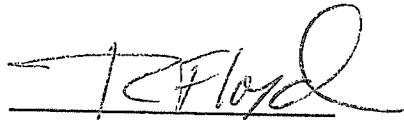
1. I, Robert Floyd, am over the age of 18, a resident of Washoe County, Nevada.
2. I swear the following statements are true and based on my personal knowledge.
3. I make these statements under the penalty of perjury.
4. I live at the south end of Ox Yoke Lane, 180 Ox Yoke Lane. The proposed commercial development is to my west, we have a common property line.
5. I get to my home on Ox Yoke Lane I turn off Rhodes Road. I have an easement over Ox Yoke Lane to get to my home. I have responsibility, along with the other 3 property owners who use Ox Yoke Lane to maintain Ox Yoke Lane.
6. When I bought my home there were four homes that were accessed by Ox Yoke Lane. There are still only four homes accessed by Ox Yoke Lane. It is an isolated, private area that is tranquil and has no commercial or public traffic.
7. There were, at the time I bought my home in 2014, no commercial enterprises on Ox Yoke Lane. To this day there are still no commercial enterprises along Ox Yoke Lane.
8. Ox Yoke Lane is a private lane - not a public road.
9. Ox Yoke Lane goes over the land owned by Mr. Ed Smith, who lives at the corner of Ox Yoke Lane and Rhodes Road. The easement of Ox Yoke Lane is across his land.
10. I oppose the proposed commercial business and commercial use of Ox Yoke Lane.

11. Ox Yoke Lane is a light duty, paved lane that has not been, to my knowledge constructed for commercial use. To my knowledges, Ox Yoke Lane is not built to withstand multiple daily trips of large trucks, horse trailers, and commercial waste management garbage trucks.
12. I further oppose the use of Ox Yoke Lane for commercial use because the traffic, noise, and lights, from cars and the business will be burdensome and not consistent with its historic character. The property intended to be developed will use Ox Yoke Lane for commercial purposes and property where the development is intended will become a commercial property.
13. Beyond the proposed change of use of Ox Yoke Lane, I am concerned about pests, such as flies, and the smell of manure from the commercial business proposed.
14. The urine and feces from the horse business proposed will unquestionably denigrate the pastures. The urine and feces will leach into the ground and increase nitrates in the ground water. As a board-certified physician, I know the potential negative effects of nitrates in the ground. They cause hardening of the arteries and coronary disease.
15. With the proposed equine facility being located directly in the middle of a natural drainage, the excess urine and feces will undoubtedly drain into and negatively affect down flow property owners and ultimately Steamboat Creek which flows into the Truckee River.
16. The wear on the land from a herd of commercial horses will eliminate the grasses on the meadow. The baren pastureland will allow dust to become airborne and cause further burden to downwind property owners.
17. The applicant/s would have known Ox Yoke Lane was a private lane at or before the purchase the property based on the easily accessible and mandatory title report. The zoning and easement are public records. The intended commercial use of the property and use of Ox Yoke Lane for commercial purposes is contrary to current zoning and the "private" scope of the easement.

18. I do not oppose my neighbors having horses, in fact my wife and I have two horses. I do oppose having a commercial equine facility being accessed by a private road in an historically non-commercial, private neighborhood contiguous with my property for the reasons set out above.
19. I bought my property specifically for its location at the end of a private lane in a rural location. I knew the zoning was not commercial. I would not have bought my home if the zoning allowed commercial use.
20. I understand the applicants have always intended to conduct a commercial enterprise on the property since it was purchased. If my understanding is correct, I believe they would have investigated to confirm the property they intended to buy was zoned commercial and that the easement would allow use for commercial purposes. There are many properties in Washoe County that are compatible with the intended use, the proposed property is not among them.

6-27-21

Date


Robert T Floyd, Md

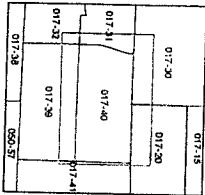
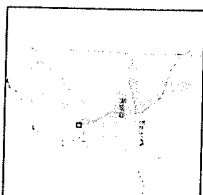
017-40

WSUP21-0018
PUBLIC COMMENT 3

STATE OF NEVADA
WASHOE COUNTY
ASSESSOR'S OFFICE
1001 East Ninth Street, Suite 200
Reno, Nevada 89512
(775) 328-2231



1 inch = 200 feet



created by: TWT 7/9/2014
updated: JKF 5/13/21

updated: JKF 5/13/21

area previously shown on map(s)

NOTE: This map was prepared for the use of the Washoe County Assessor for assessment and illustrative purposes only. It does not represent a survey of the premises. No liability is assumed as to the sufficiency or accuracy of the data delineated hereon.

Exhibit "E"

Declaration of Jessica Hodges

To whom it may concern,

I, Jessica Hodges, am over the age of 18, and am a resident of Washoe County. I swear under penalty of perjury that the following is true based on my personal knowledge.

I just closed on the purchase of my home at 35 Ox-Yoke Lane on 6/25/21. I intend to raise my two young children there. I have not yet moved into the property, but we will do so in the following weeks.

I oppose the commercial use of Ox-Yoke Lane for the following reasons.

A large factor in my purchase, and purchase price offered was location. We investigated potential developments across Rhodes Road and confirmed that the surrounding area was rural "residential" only.

I am a licensed Nevada Realtor and I own an interest in a title company. After learning of the requested change in zoning for an equestrian business, I searched the CCRs, parcel maps, and all recorded documents. My title officer and I located the following: Ox-Yoke Lane is a "private road" provided by John Rhodes parcel #017-400-35 to parcel numbers 017-400-34, 017-310-23, and 017-310-24. The easement is currently located on parcel 017-400-35 owned by Edward Smith. The recorded easement documents and parcel maps **do not** show or identify APN 017-310-21 as being granted legal access to Ox Yoke for personal use, much less commercial use. Therefore, the proposed development at APN 017-310-21 do not have the legal right to use the Ox-Yoke Lane for any purpose including the requested commercial business.

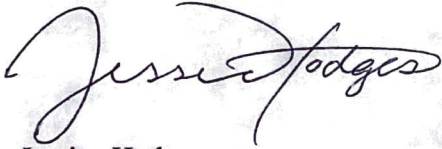
Not only would allowing a commercial enterprise this put a financial burden on the residents of Ox Yoke Lane due to increased traffic and wear and tear on our privately maintained road. The increased traffic would cause an exponential increase in noise pollution, and a safety concern for our small children. We moved to this rural area to allow our children to have some freedom and get off the busy street we were living on. I knew a private road would provide the desired degree of safety. Not only would the traffic burden increase on Ox Yoke Lane it would increase traffic on Rhodes Road, that adjoins my property on the North.

An additional concern is the location of the proposed barn will block a water way that we and others own water rights to. The change in the natural drainage and existing ditches would be a potential flooding concern once covered or altered. In order to change a drainage ditch or water way the Army Core of Engineers should be involved to ensure the water has a safe route. We also considered the 20-acre feet of waters rights transferred by appurtenance in the price we paid for the home, which would be eliminated, by the proposed location of the barn.

In closing, I am all for people utilizing their rural property as they see fit, but not when it increases the burden on those around them. If they intended to have a commercial boarding facility, they should have purchased a home with the zoning that would allow the intended development/business.

The proposed project should not be allowed. It is detrimental to my property interests, privacy, property rights and will reduce the value of my home.

Thank you,

A handwritten signature in black ink, reading "Jessica Hodges". The signature is fluid and cursive, with the first name "Jessica" written in a larger, more prominent script than the last name "Hodges".

Jessica Hodges

Jessica@HomeisNV.com

775-813-7024

Declaration of Taylor Hodges

To whom it may concern,

I, Taylor Hodges, am over the age of 18, and am a resident of Washoe County. I swear under penalty of perjury that the following is true based on my personal knowledge.

I am the husband of Jessica Hodges. We own 35 Ox-Yoke, and I attest the following statement based on my own knowledge.

I just closed on my home at 35 Ox-Yoke Lane on 6/25/21 with the intent of raising our two young children there. I have not yet moved into the property, but we will be in the following weeks.

I oppose the commercial use of Ox-Yoke Lane for the following reasons.

A large factor in our purchase, and purchase price offered was location. We investigated potential developments across Rhodes Road and confirmed that the surrounding area was rural residential only. It was not zoned for commercial use.

Furthermore, the CCRs, parcel maps, and all recorded documents I have seen show: Ox-Yoke Lane is a private road provided by John Rhodes parcel #017-400-35 to parcel numbers 017-400-34, 017-310-23, and 017-310-24. The easement is currently located on parcel 017-400-35 owned by Edward Smith. The recorded easement documents and parcel maps never show or name 017-310-21 as being granted legal access to Ox Yoke for personal use, much less commercial use. Can the owners at 017-310-21 to prove they have the legal right to use the Ox-Yoke Lane?

Not only would this put a financial burden on the residents of Ox Yoke due to increased traffic and wear and tear on our privately owned and maintained road. The increased traffic would be constant noise and pollution. The traffic also gives me concern for our small children. We moved to this rural area to allow our children to have some freedom and get off the busy street we were living on. I thought a private road would provide that. Not only would the traffic burden, increase traffic on Ox Yoke it would also increase the traffic on Rhodes Road which is on the north side of our home.

An additional concern is the barn location on the request to change zoning is going to block the natural water drainage and existing ditches. We purchased water rights with the property, and I am concerned our water right and access to water from the ditch will be blocked by the intended barn. I do not believe a change in drainage or ditches can occur without permission from the appropriate authorities.

In closing, I am all for people utilizing their rural property as they see fit, but not when it increases the burden on those around them. If they intended to have a commercial boarding facility, they should have purchased a home with compatible zoning or one that had the improvements to support the desired use.

Thank you.

A handwritten signature in dark ink, appearing to read 'Taylor', with a long, sweeping horizontal line extending from the end of the signature across the page.

Taylor Hodges
TNH63@icloud.com
775-813-8219

Exhibit "F"

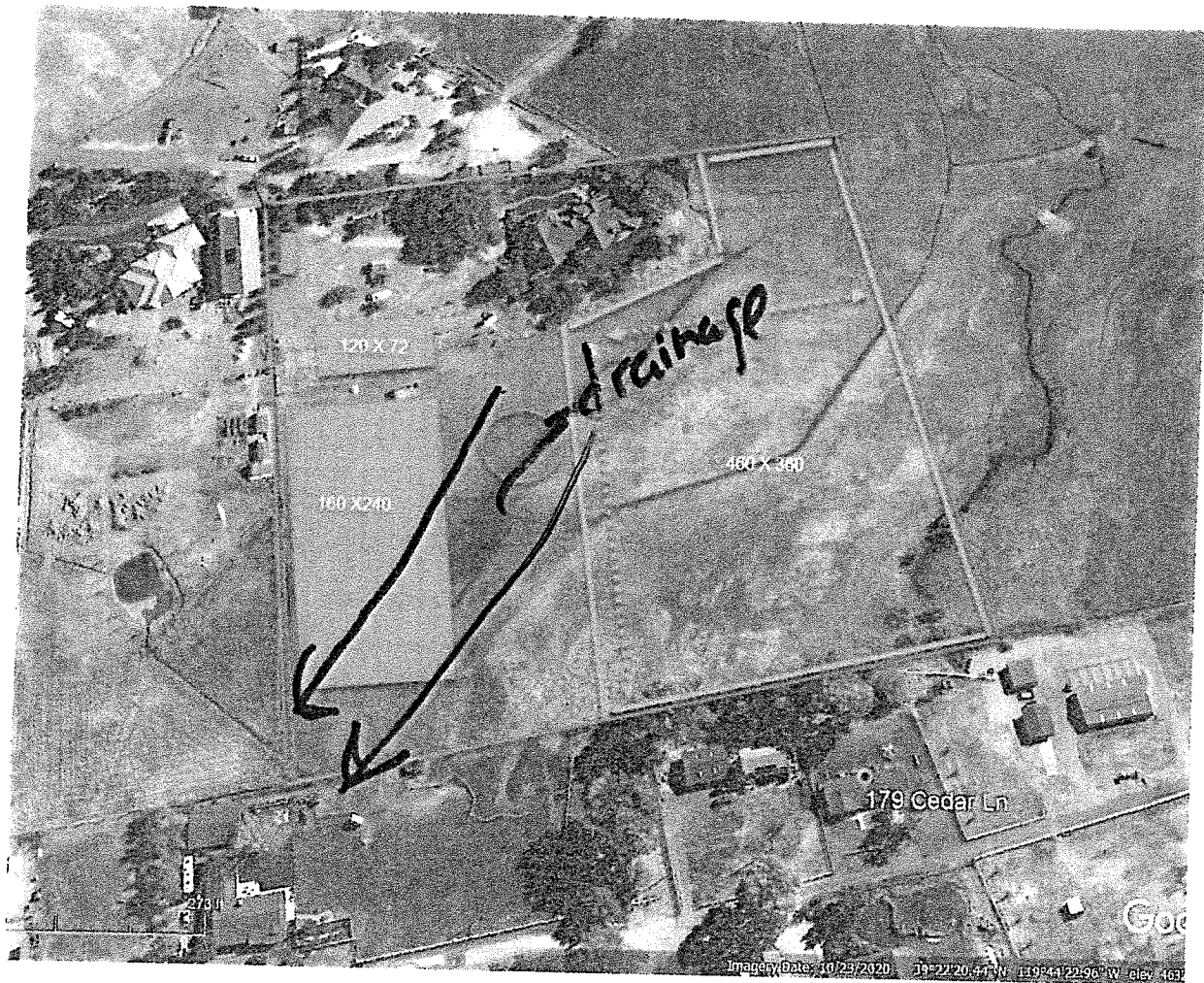
My name is Russell James and I am over the age of 18. I owned a home at 300 Rhodes Rd in Washoe County, Nevada. I have an immediate concern on the application for case number WSUP21-0018 (Tail Water Ranch).

The following facts are based upon my personal knowledge.

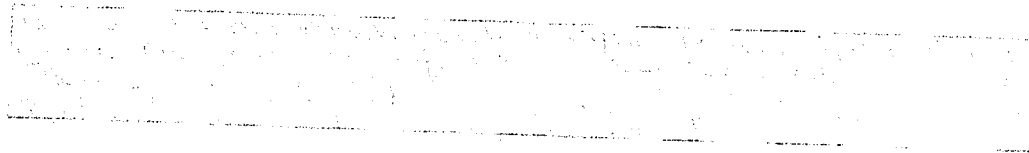
The applicants drawings show a Horse boarding facility that will interrupt the current ditch system and water drainage for our valley. (I have included pictures of previous flooding situation at my home). An arena built in the middle of the current ditch system, will exacerbate the reoccurring flooding problem. This will put my house at 300 Rhodes Rd. in danger of much more serious flooding. This field will also be flooded irrigated. The urine and feces will flow from the property, that will cause contamination of our well water. I do not believe that the applicant has the legal authority to change the flow of the current ditch system.



right against the fence line and within a couple of hundred feet of several homes. Hardly "distant" from neighboring properties. This is essentially land locked property and should not be used for this type of 7 day a week, 12 plus hour a day business.



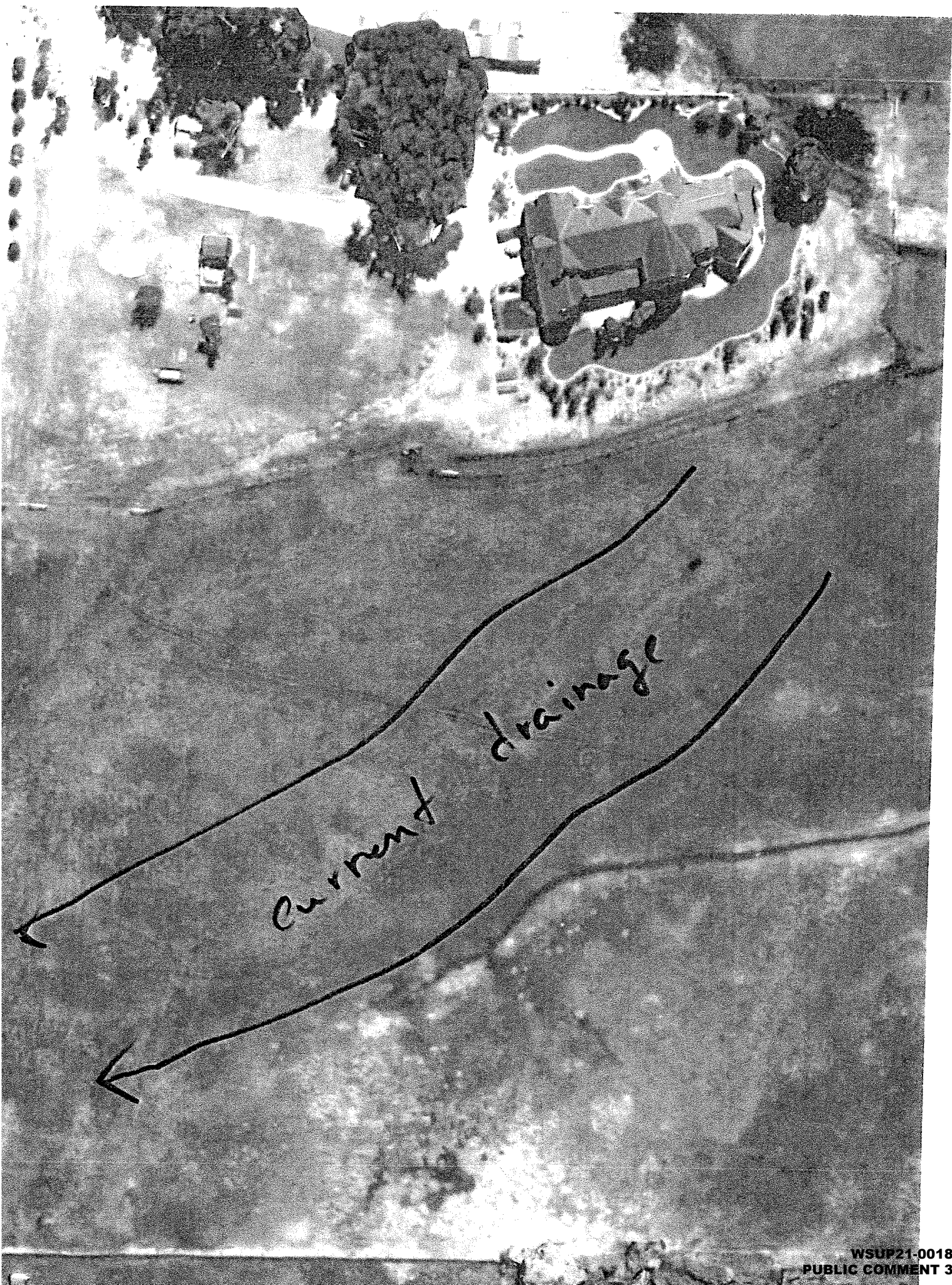
13. What are the anticipated beneficial aspects or affects your project will have on adjacent properties and the community?



Several concerns here:

Adding "equestrian space" in no way has a beneficial impact on the adjacent properties, or will it increase the property values have a business in our backyards.

There is not a waiting list for all equestrian Center's at this time. There are other centers that are enlarging and already have their location. There is also another request for a new equestrian center away from residential areas



For these reasons, we are asking for a halt to this project.

I make these statements under penalty of perjury.

27 June 2021

Signature: Russell James

Russell James







Exhibit "H"

Declaration:

June 28th, 2021

I, Jeffrey A. Fisher am older than 18 years of age. I own property and live at 157 Cedar Lane Reno NV in Washoe county and am contiguous with the subject property.

The following statements are made under the penalty of perjury.

I fully understand and support one's use and development of their land as they see fit. However, this applies until it becomes a burden on others.

The development of the commercial Tailwater Ranch and Equestrian Center will increase the burden on the residence in the area in Steamboat Valley and be detrimental to the health and safety of these residences.

1 Their open-air riding arenas will produce air borne dust/pollutants along with ground up feces blowing in the wind not only during the twelve hours per day of riding operations but also when daily arena tractor and truck preparations associated occur with maintenance. This 12 to 15 hour per day, seven days a week airborne pollutant is a health and safety issue that impacts the adjacent residents such as me.

2 We will also incur the 12 to 15 hours per day seven days per week of the operational noise associated with an equestrian operation. This will destroy our current serene setting, detrimentally altering the current quiet we all enjoy.

3 Based on the application, there is no fire suppression in the stalls to be used for this commercial operation. Electricity is provided but no plumbing. I have seen fires rapidly spread given our frequent winds. My residence is the closest to the intended commercial enterprise. The dry grasses and wind allow rapid expansion of fires that are difficult to contain. There are no local fire hydrants within a mile of the proposed development.

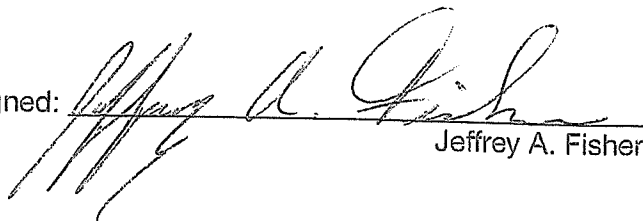
4 My visits to other equestrian centers have shown innumerable flies and the stench of urine and feces. These noxious items concentrated on this small parcel will devastate the clean fresh air we reside here for and currently enjoy.

5 We are all on wells in this area. The increase in water usage to wash, feed horses and clean stalls will lower the water table causing further burdens on the adjacent residences. As the water is drawn down wells commonly go dry and must be drilled to deeper depths.

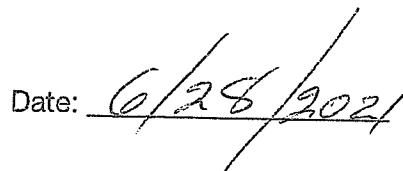
6 There is no sewage drainage for this commercial project. Washing of stalls and horses will run off on to the ground causing contamination of ground water which will reach neighboring wells. Surface water runoff, with urine and feces will eventually cross neighboring properties and enter Steamboat Creek and eventually the Truckee River. This flood irrigated field will logically spread toxins down slope causing contamination to neighboring properties and the water supply.

This project will negatively impact the financial value of our properties. It will cause pressure and stress from forms, increasing the burden on the residents of this currently peaceful valley. The intended project must not be allowed to occur. The project should be precluded.

Signed:


Jeffrey A. Fisher

Date:



I, Lynda Susan Fisher being over the age of 18 years old, living at and owner of 157 Cedar Lane, Reno, NV 89521. My home is adjacent to 145 Ox-Yoke Lane. The following facts are based on my personal knowledge, experience and under penalty of perjury.

1)

We access our home off Rhodes Road. The amount of horse trailer traffic required to support the Tailwater Ranch project will cause unsafe conditions on the rural roads in our area. We currently freely use these roads to bike and walk. These activities we enjoy will no longer be safe.

2)

The closest current equestrian center is 3/4 of a mile from our home. From their operation we regularly hear noise, experience feces dust, dirt dust and smells on a reoccurring basis. Tailwater Ranch proposes to build an open-air arena within an estimated 30 feet from my property line and 100 feet from our kitchen. With knowledge of what I endure from the operation of the horse business 3/4 mile away I am sickened realizing the increased burden including flies and smells that will result from the proposed business 100 feet from my kitchen. My health will be in jeopardy and my quality of life will be destroyed.

3)

The proposal by Tailwater Ranch also fails to address or propose any landscaping development as required by Washoe County for commercial operations adjacent to residential properties. Exacerbating their noxious environment and further increasing the burden on me.

4)

I enjoy a peaceful view and quiet rural setting. The Tailwater development will destroy that peace. The proposed business will run 7 days a week. It will destroy my quiet environment. See attached pictures.

5)

We have chosen to live in this rural residential setting. This requested commercial development in the middle of this rural residential setting is a destruction of this neighborhood. This project is a developing disaster placing multiple extreme burdens on the adjacent residences. To be allowed to proceed it will deteriorate into a noxious setting that will permeate into the surrounding residences affecting our health, well-being and peace. This venture must be stopped.

6)

I oppose the development and request the current zoning and use be continued.

Dated: 6/28/2021

Lynda Fisher:

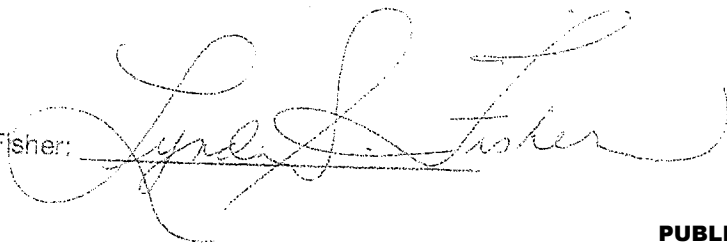


Exhibit "I"

Good afternoon,

My name is Janet Raftery and I am over 18 years of age and reside at 179 ½ Cedar Lane road. I am writing this under penalty of perjury. My husband and I own this property and it is contiguous to 145 Ox Yoke lane. I understand that a commercial equestrian center is being proposed for the field directly behind our home.

My personal understanding of equestrian centers is that are located in non-residential areas with ample acreage and not in neighborhoods where most of the homes are on 1- and 2-acre parcels. I am also aware that events take place that require loud speakers, and evening flood lights. This will seriously impact my quality of life. In addition to this it will bring in more flies, dust, smell and will depreciate the value of our home.

We moved into this neighborhood to enjoy the serene and peaceful surroundings of this area. We are living here to improve our quality of life. This commercial project will greatly impact our livelihood in a negative way.

My concerns listed below:

1. Noise from events and training 7 days a week 12 hours a day
2. Flood lights and lighting to illuminate a horse arena late into the evening
3. Decrease of air quality from pollutants such as increased dirt and dust
4. Increase of flies
5. Increase of odor
6. Increase of vehicle traffic and people
7. Depreciation of property value

We want to continue to live and enjoy our neighborhood without the disruption of a large commercial horse arena built within feet of our property line and contiguous to our backyard.
(Attached are pictures of our back yard and the visible proximity that the equestrian center is proposed to be located).

Sincerely,
Janet Raftery
6/26/2021



I Kimberly Olsen-Wilson am over the age of 18 years of age and live in Washoe County NV.

I swear the following statements are true and based on my personal knowledge and experience. I am making these statements under the penalty of perjury.

I live at the South end of Ox Yoke lane and reside at 180 Ox Yoke Lane.

I travel to my residence via Ox Yoke Lane and have an easement over Ox Yoke Lane to get to my place of residence.

When I bought my home there were only 4 homes on this street that also accessed their homes using Ox Yoke Lane and currently this still holds true.

I oppose the proposed horse business at the property adjacent to mine. It will increase traffic on our private lane, increase my cost for maintaining the lane, change the zoning to commercial and allow commercial use of the private lane.

The business will also increase noise and dust.

The location is over the natural drainage.

Horse urine will seep into the ground and degrade the quality of our well water, which my husband and I drink.

The change of use also will alter the peaceful and historic use of our property.

Please do not approve the requested commercial use.

June 26, 2021.

A handwritten signature in cursive script, appearing to read 'Kimberly Olsen-Wilson', with a long horizontal flourish extending to the right.

Kimberly Olsen-Wilson

From: [Olander, Julee](#)
To: [Steve Noel](#); [Stark, Katherine](#); [Fagan, Donna](#)
Cc: [kbiro7@gmail.com](#); [Tahoehills@att.net](#); [Stanley, Brad](#); [thomas.clay67@gmail.com](#); [Christensen, Don](#)
Subject: RE: Special Use Permit Case Number WSUP21-0018 (Tailwater Ranch & Equestrian Center)
Date: Thursday, July 1, 2021 11:25:10 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Thank you for your email and it will be added to the public comment.



Please tell us how we did by taking a quick [survey](#)

Julee Olander

Planner | Community Services Department- Planning & Building Division

jolander@washoecounty.us | Office: 775.328.3627

1001 E. Ninth St., Bldg A., Reno, NV 89512

Visit us first online: www.washoecounty.us/csd

For Planning call (775) 328-6100

Email: Planning@washoecounty.us



Connect with us: [cMail](#) | [Twitter](#) | [Facebook](#) | www.washoecounty.us

From: Steve Noel <snoel17@gmail.com>

Sent: Thursday, July 1, 2021 11:20 AM

To: Stark, Katherine <KRStark@washoecounty.us>

Cc: Olander, Julee <JOlander@washoecounty.us>; [kbiro7@gmail.com](#); [Tahoehills@att.net](#); Stanley, Brad <BStanley@washoecounty.us>; [thomas.clay67@gmail.com](#); Christensen, Don <DChristensen@washoecounty.us>

Subject: Special Use Permit Case Number WSUP21-0018 (Tailwater Ranch & Equestrian Center)

[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hello,

My name is Steve Noel and I own and reside at 179 Cedar lane which is located directly next to the property in question.

In regards to Special Use Permit Case Number WSUP21-0018 (Tailwater Ranch & Equestrian Center) I have a couple of concerns I want to make sure are considered and addressed.

First I want to state that I strongly believe every landowner has a right to use their land in a way that increases their quality of life, so long as it does not adversely affect the quality of life of those living near them in an undue manner.

My concerns are around 5 main points.

1. Water Quality
2. Flood Control
3. Overgrazing
4. Traffic over damaged Rhodes Rd. Bridge.
5. Who governs these provisions?

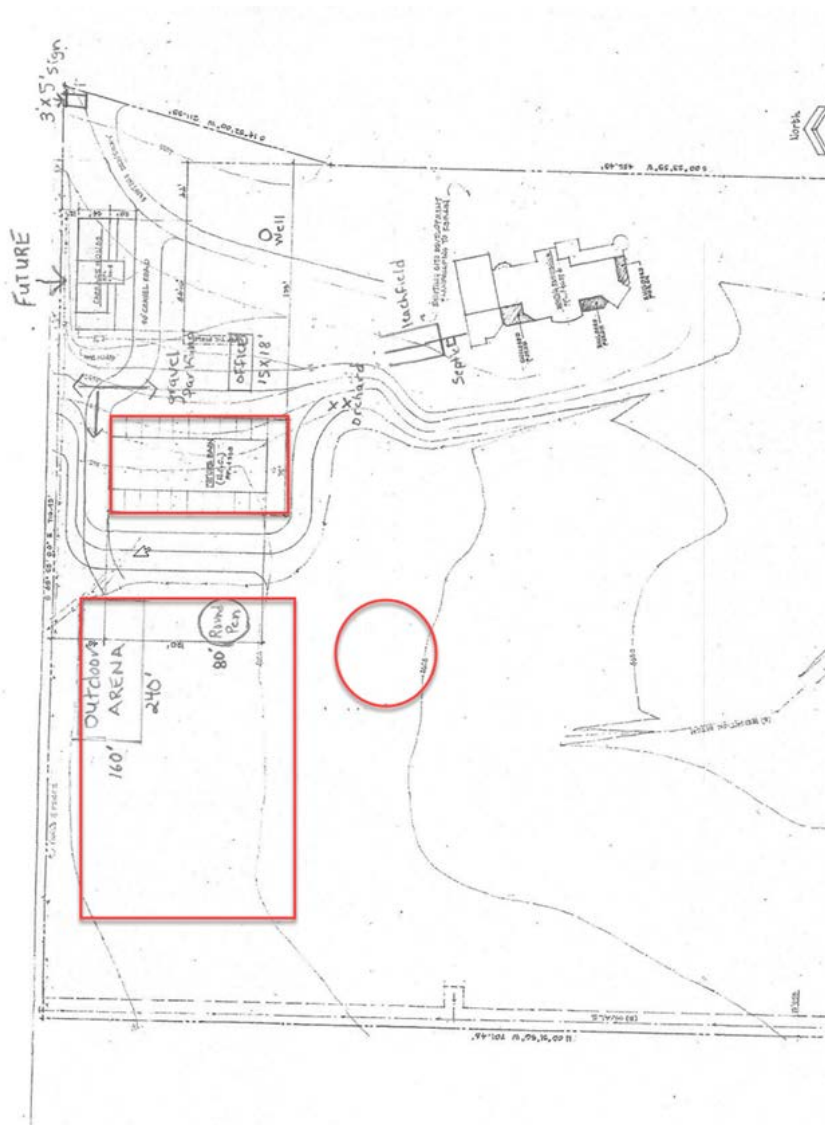
Water quality

As you can see from the image below, the water irrigation ditches run towards the proposed location of the riding arena. This brings up several questions. Where will this water go? When they build the turnout pastures in the area of the irrigation ditches, will that manure also be removed weekly? Otherwise it will flow into the main irrigation ditch when they flood the fields.

The staff report states, “The applicant indicates that there will be no ground water contamination as horses will not be pastured in flood irrigation areas.” As you can see the entire area is flood irrigated, so this statement is false.



In addition the owners state in section 12 that they have ...“that is distant from neighboring properties”... and the Staff report states “The applicant does want to keep the facilities’ structures a distant from existing neighbors and to keep the “agriculture environment” and maintain the “beautiful landscape”. As you can see in the drawing they submitted (page 8 of the pdf) everything seems to be drawn to scale, except the outdoor arena and the round pen that will not be distant from the adjacent properties, I believe this was done to intentionally mislead. I have added red outlines showing the actual size of these items based on the measurements provided by them and other objects drawn to scale on the drawing.



All of these structures are located in the flood irrigation area and this area carries flood water when needed. With the structures and arena being in this area, flood waters will be blocked causing increased flooding in the Cedar Lane area.

Overgrazing

Ample acreage. As shown on the image above, they will only have 5 acres of pasture that will be housing up to 9 horses when running at the full 25 horses on property. As stated this is $\frac{1}{2}$ the recommended acres required for just the 9 horses, not to mention the other 16 kept in stables. Also if you look at the other Equestrian facilities in the area, their "pastures" are dirt lots where horses stand due to overgrazing and too many animals, as seen in this Google earth photo taken October 23rd, 2020 below. The red arrows point to turnout "pastures". Imagine the dust and dried manure being blown into homes located within a couple of hundred feet of these areas.

The website stablemanagement.com has an article written by Katie Navarro, April 15 2020.

She states, "There are many things to consider when running a horse boarding facility or your own farm. Traditionally there has been a per acre approach to estimating land needs. Often one horse per acre is used as a starting point. In some cases 2 acres is recommended for the first horse and one additional acre for each additional horse is suggested to prevent overgrazing the pastures."

Using this formula they would need 10 acres for these 9 horses at minimum.

The main concern for the community is the number of horses per acre and the environmental impact.

1. Too many horses for the acreage.
2. Groundwater contamination due to horses being housed in the flood irrigation area.
3. Traffic issues due to the number of horses.
4. Dust and soil erosion due to overgrazing.

You will also note that there are no houses close to any of these other equestrian facilities other than the owner's homes.



Traffic

The bridge over Steamboat creek has been reduced to one lane for over a year due to damage. Washoe County has sought a \$500,000 grant to help with repair costs that are estimated to be \$750,000. The grant was rejected so the county does not have the money to fix it. Adding an additional 25 horses, being carried by truck and trailer over this damaged bridge, along with the added daily traffic will only exacerbate the issue placing everyone who relies on the bridge at higher risk.

Provisions

In conclusion I would like to understand how the provisions of this special use permit are adjudicated.

1. Will any events ever extend past 5pm? This includes the Training, workshops, and special events listed in section 4.
2. Has an assessment been done on potential groundwater contamination or additional flood risks based on the updates being proposed?
3. Will there be any activities at night or will the lights create “light pollution” affecting the neighboring properties?
4. Has an impact study been done on the potential damage to the Rhodes Road bridge?
5. If any of the statements made in the application are not abided by, what is our recourse?

In conclusion I want to thank you for your consideration and work in evaluating these reasoned objections to placing a commercial agricultural business a few hundred feet away from our residential area.

Thank you,

Steve Noel

From: [Olander, Julee](#)
To: [Peta Ross](#)
Cc: [Fagan, Donna](#)
Subject: RE: Tailwater Ranch, Special Use Permit Case Number WSUP21-0018.
Date: Thursday, July 1, 2021 12:28:44 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Thank you for your email and it will be added to the public record.



Please tell us how we did by taking a quick [survey](#)

Julee Olander

Planner | Community Services Department- Planning & Building Division

jolander@washoecounty.us | Office: 775.328.3627

1001 E. Ninth St., Bldg A., Reno, NV 89512

Visit us first online: www.washoecounty.us/csd

For Planning call (775) 328-6100

Email: Planning@washoecounty.us



Connect with us: [cMail](#) | [Twitter](#) | [Facebook](#) | www.washoecounty.us

From: Peta Ross <renoaussie@sbcglobal.net>
Sent: Thursday, July 1, 2021 11:58 AM
To: Olander, Julee <JOlander@washoecounty.us>
Subject: Fwd: Tailwater Ranch, Special Use Permit Case Number WSUP21-0018.

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Begin forwarded message:

From: Peta Ross <renoaussie@sbcglobal.net>
Subject: Tailwater Ranch, Special Use Permit Case Number WSUP21-0018.
Date: June 27, 2021 at 11:31:39 AM PDT
To: tahoehills@att.net, ClayThomas@washoecounty.us,
Taxman2353@gmail.com, rpierce@washoecounty.us,
bstanley@washoecounty.us, tlloyd@washoecounty.us

Good morning,

My name is Peta Ross and I live at 1185 Paddock Lane, Reno, NV 89521.

Unfortunately the CAB meeting for this proposed commercial enterprise (Tailwater Ranch, SUP Case # WSUP21-0018) was canceled and the applicants have ignored residents requests to meet.

My family and I are very concerned that we may have another commercial equestrian facility in the vicinity. We already have 6 "commercial" equine businesses that use Rhodes Road and the traffic is becoming unbearable. Their clients speed up and down Rhodes Rd all day. The speed limit is 25 and it is not uncommon to have people going 45/50 mph because they are late for a lesson or their employees are late for work. The bridge at the beginning of Rhodes Road has been 1 lane for almost 2 years now and more trucks and cars coming over is not the answer.

The parcel on which they are asking for a special use permit is not zoned commercial and we believe way too small for such an operation. If you look at the other equine businesses in the area, although they may have roughly the same acreage, they do not have 7000 sq ft houses on them that take up 1/3 of the land. We do NOT believe that their very basic and crude drawings for the proposed barn, outdoor arena and round pen are drawn anywhere near to scale. These will take up a major part of the remaining property and not leave them nearly enough turnout pasture for 25 horses. They also do not have any plans for a bathroom so I do not know how you could consider approving this permit without that being addressed especially as they say they will be having employees.

Ox Yoke Lane is a small, private road with several residential houses on the road. The property in question is at the end of the cul de sac and this means the houses on that road are going to have to put up with cars, horse trailers, trailers for hauling manure, etc all day long. These people bought their properties there for the rural "residential" lifestyle, not a commercial lifestyle! Ben & Darcy Bauer new when they bought their house that the property was zoned Low Density Rural. If they wanted a commercial property, they should have bought somewhere else. They say the planned hours of operation will be 8am - 5pm, horseback riding in daylight hours only. Daylight hours in summer are 6am to 9pm and a lot of their clients will probably work or go to school so it is unlikely they will only operate between 8am and 5pm.

The pasture that they are applying for the Special Use Permit for is low lying and also where a lot of the water runoff from flood irrigation goes and passes through to the Steamboat ditch. They have had flooding issues in the past in this area. The applicants state that the area was previously used for a grass fed beef business. I believe this statement to be incorrect, the previous owners have a grass fed beef business but never put their cows on this pasture because it was always too wet.

These are just a few of the concerns. I could go on but hopefully you will listen to the

rural residents and deny this application.

Regards,

Peta Ross
(775) 848 2624