

WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Lee Lawrence, Chair
Kim Toulouse, Vice Chair
Kristina Hill
Brad Stanley
Clay Thomas
William Whitney, Secretary

Thursday, June 1, 2017
1:30 p.m.

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

The Washoe County Board of Adjustment met in regular session on Thursday, June 1, 2017, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Toulouse called the meeting to order at 1:31 p.m. The following members and staff were present:

Members present:

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

Members absent:

None

Staff present:

Bob Webb, Planning Manager, Planning and Development
Roger Pelham, Senior Planner, Planning and Development
Trevor Lloyd, Senior Planner, Planning and Development
Chad Giesinger, Senior Planner, Planning and Development
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Eva Krause, Planner, Planning and Development
Donna Fagan, Recording Secretary

2. *Pledge of Allegiance

Member Lawrence led the pledge to the flag.

3. *Ethics Law Announcement

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

4. *Appeal Procedure

Bob Webb, Planning Manager, recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

Chair Toulouse opened the public comment period. Cathy Brandhorst spoke on issues of concern to herself. Chair Toulouse closed public comment.

6. Approval of Agenda

Chair Toulouse stated there was a change to the agenda. He noted Item 9C would be presented by Trevor Lloyd instead of Kelly Mullin. Member Toulouse moved to approve the agenda for June 1, 2017 as amended. The motion was seconded by Member Lawrence, which carried unanimously.

7. Approval of April 6, 2017 Draft Minutes

Member Thomas moved to approve the minutes of February 2, 2017, as written. The motion was seconded by Member Lawrence, which carried unanimously with Member Hill abstaining.

8. Planning Items

For possible action and discussion to direct staff to draft amendments to the Board of Adjustment's Rules, Policies and Procedures to remove the public comment time limit rule of five minutes for a speaker representing a group and other matters as appropriate.

Bob Webb, Planning Manager, stated Julie Olander was hired as a new Planner last month and she was present. He said staff was requesting direction from the Board to bring back amendments to the Rules, Policies and Procedures that had been adopted several months ago, specifically pertaining to the five minute group public comment time limit. The Board of County Commissioners (BCC) did not have a similar time limit; they had a three minute time limit per person with no distinction for groups. He noticed the five minute rule that pertained to groups had been unwieldy and unmanageable for both this Board and the Planning Commission. He was asking to bring back the proposed amendments to the next meeting for the Board to discuss, receive public input and possibly act on those amendments.

Member Thomas stated he did not see a problem with that and thought it would be good to be consistent with the BCC. Chair Toulouse concurred and called for a motion.

Member Thomas moved to work with staff to bring forth a proposal pertaining to possible action on the Board's Rules, Policies and Procedures to be consistent with the time frame for speakers. Member Stanley seconded the motion, which carried unanimously.

9. Public Hearings

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

- A. Special Use Permit Case Number WSUP17-0007 (Quilici Road Group Care)** – For possible action, hearing, and discussion to approve a Special Use Permit to allow the conversion of an existing 3,817 square foot single family dwelling to a 5,041 square foot 15 bed group care facility that will provide assisted living care to elderly patients not requiring medical treatment. If approved, the permit may also include variances to generally applicable building or operation requirements as provided in WCC 110.810.20(e) and WCC 110.804.25, including but not limited to variances to the required number and type of allowed parking spaces, variances to the required access dimensions to the site, variances to the amount or type of required landscaping, and variances to the lighting requirements at the site including the exterior of the building and the parking area(s).

- Applicant: Hughes Private Capital, LLC
- Property Owner: ROI Strategies LLC
- Location: 3405 Quilici Road
- Assessor's Parcel Number: 040-730-32
- Parcel Size: 2.97 acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 302, Allowed Uses as a Civic Use Type, Article 322, Group Care Facilities; and Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 13, T18N, R19E, MDM
Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner
- Phone: 775.328.3626
- Email: cgiesinger@washoecounty.us

Chair Toulouse opened the public hearing. He said he understood there was a request for a continuance and he called the Applicant forward. Derek Wilson, Rubicon Design, stated they were requesting a continuance due to the fact the Applicant had no forewarning staff was recommending denial. He felt it was necessary for them to meet with staff to address their questions and concerns. Chad Giesinger, Senior Planner, stated he would work with the Applicant further and had an agency review meeting scheduled to address concerns.

Chair Toulouse opened discussion to the Board. Member Thomas stated he agreed the Applicant should work with staff, but also with the community for their input. Member Stanley and Member Lawrence concurred.

Chair Toulouse opened public comment. Leo Donnelly, 3355 Quilici Road, stated in 2002 he retired from the Reno Fire Department and he was present to respond to a change of occupancy at 3405 Quilici Road from a single-family residence on three acres to a 15 patient senior home care facility. He felt that was an unacceptable change to the neighborhood that would have many impacts, one of which would be the increase in emergency vehicle traffic on their main road, Dryden Drive. He said the facility would be required to have working fire alarm and sprinkler systems and would generate many false alarms per year in addition to the actual necessary calls for service that the facility would generate. He said the Fire Department would have to respond to every fire alarm and when emergency vehicles would go down Dryden Drive there was nowhere to pull off to let them by. He said every medical emergency would require a response from a REMSA unit and a Truckee Meadows Fire Protection District (TMFPD) engine. A first-alarm fire alarm to this occupancy from the TMFPD would be four engine companies, three tenders and a Battalion Chief vehicle and possibly fire investigators and as many ambulances as was needed for evacuations. Evacuating patients from the facility would require a bus that could handle at least 15 people. He was concerned because they have had several wildfires and floods in the area and had to evacuate and he felt this occupancy would be very dangerous and response time was 12 to 15 minutes.

Jan Donnelly, 3355 Quilici Road, stated she read the zoning guidelines and saw that a residential group home was allowed in their area but that multi-family homes were not. She said this project greatly exceeded the existing size of the home, which in her opinion put this into a commercial category. She said it had plans for parking lots, lights, increase in utility capacities and road use. She stated the Applicant was asking that well over 50 families endure the impact to their quality of life so that a number of unrelated tenants and employees could have room in their neighborhood. She noted that Mr. Hughes stated in his application that the project would have a low impact on the community and she disagreed. She said Mr. Hughes and his

investors' primary commitment was to make sure they had a return on their investment property. The owners would not live on the site or in the neighborhood; neither would the employees. There would be no commitment to the neighborhood from the Hughes Corporation, the facility operators, the subcontractors or the tenants. She noted Mr. Hughes stated they had never done something like this group home before and it was obvious in the application. There were several statements that gave no answer and said plans would be left up to the management group, which was Mr. Hughes' other company. She did not want the Board to approve a building facility and then have a thrown together plan for operation. She stated this plan omitted the impact of additional utility usages and had completely underestimated the amount of traffic, noise and nuisances to the neighborhood.

Art O'Connor, 10985 Dryden Drive, presented a PowerPoint presentation showing the neighborhood, Washoe County Code, traffic, steep terrain, access, poor quality of Dryden Drive, no place for delivery vehicles, blind curves on Dryden Drive and no sidewalks or curb and gutters.

Horace Costanza, 11005 Dryden Drive, stated what the owner left out was that when he showed the Board a picture of the subject property, he did not show a picture of his house 30 feet from their back fence. He said they were proposing to put in a 3,500 gallon septic tank with over 400 feet of leach field. All that sewage and commercial kitchen worried him and he wondered what would happen to his water quality. He said they would only be going down 8 feet for their leach field and the leach field that was on the house now was 13.5 feet deep. He said when the original owners built the subject property home they landscaped it and all of the drainage water ran into his property and a bigger facility would cover more ground, have parking and their hardscape would not absorb runoff water. He wondered where it would go because there was no curb and gutter and they had ditches on both sides of the road.

Gordon Depaoli, 3925 Fairview Road, stated he lived fairly close to the subject and the entire neighborhood relied on Dryden Drive as their sole route of ingress/egress to Holcomb Ranch Lane. He said he understood the need for these types of facilities, but he did not believe it belonged in an area that was not served by a municipal purveyor of water or municipal sewer system. He said there were no fire hydrants located in this neighborhood and there was only one road in and out of the area. The Development Code confirmed this type of facility did not belong there and the Board should deny the application. He concurred in what staff had said, but in order to issue a Special Use Permit, the plan had to be consistent with the Southwest Truckee Meadows Area Plan; there were a number of policies that it was not consistent with or for which no information had been provided. There were no details on lighting and very little on traffic and the Board could not make the findings they were required to make without those details. He said the Area Plan provided that all residences were to be supplied by groundwater wells; therefore, future development must be constrained. Pumping impacts to existing wells should be minimized. He said all of the area relied on domestic wells and what they were proposing was a facility that was functionally the equivalent of four to six single-family residences all on one property.

Marilyn Mabrey, 3550 Lamay Lane, read into the record County Code, Part 2, Ordinance #1431 70.200 regarding the Traffic Control Committee creation and membership duties. She asked if the traffic committee signed off on what would happen in their rural area to the roads. Everyone said how narrow the road was, the traffic situation and there was nowhere to go. It was a dead end street; when you got to the end of Dryden Drive it literally stopped. She said last summer there was a fire on Dryden Drive. She lived on a hill and she could overlook part of the valley and when she saw the smoke an engine came up Holcomb Ranch Road, realized he was on the wrong road, did not know where he was going, turned around and then went on up to Thomas Creek Road. She said a large engine blocked the street.

Ed Vauk, 3361 Misty Court, stated the road easement was 50 feet across with 21 feet of asphalt, after that they had ditches that averaged a depth of two to three feet. There was no way to pull over to the side of the road. He said with the off street parking being impossible, the condition would be potentially dangerous in the winter. He said they got plowed because they were on a bus route, but if there was any type of vehicle blocking that bus there was no place for it to turn around for a mile. All the utility lines were above ground and the area offered no public water, sewer and none were in the projections. At present, the proposed

septic tank held 3,500 gallons. He looked up on TMWA what the estimated average use would be per family and it was 137,000 gallons per year and with 15 occupants and two workers that would equate to 400,000 gallons of wastewater and approximately 7,700 gallons to be dumped each week. He asked that the septic system be engineered and approved by an engineer. He said he called NV Energy and discovered he had 23 power outages back to 2013 and the longest was four days and the average was five to seven hours. He put in a 6k backup generator last year because he was tired of being in the dark. About 50 percent of his neighbors had generators because of the outages and NV Energy had no plans to fix their power.

Randi Singer, 3370 Quilici Road, said as of last year, she had both her mother and sister-in-law in group homes. She stated she was all for group homes and thought they were a great idea, but she did not believe it should be put at this site. She said it was not just that it was in her neighborhood it was because the safety issues were numerous and there would be many services that would impact her neighborhood negatively. She said there would be fuel trucks, food delivery trucks, UPS, FedEx, cleaning crews and medical supply vehicles. She said it was not if, but when, people would go into a hospice facility; hospice kept the people where they were; they did not want to put them in another facility because they were comfortable where they were. Hospice required a minimum of four people to assist for each person so there was way more traffic than they were talking about being proposed. She stated the medical supplies, medications delivered; the oxygen and Social Services had to check on the facility. She noted there would also be family members coming to visit and when there was ice and snow she had gone off into the ditches several times and she had four-wheel drive. There would be caregivers for three shifts with two or three people. There would also be medication administrators, physician assistants, maintenance trucks, laundry trucks and they would put more of a burden on the sewer and water.

Kim Guinasso, 11210 Vincent Lane, said the only public road was Dryden Drive that reached her home and it was narrow. The plans called for 15 bedrooms, which could accommodate more than one person per bedroom and 16 toilets. She thought that meant this would be an extremely large commercial operation in a place where many residents, including her, had to drill new wells. The nature of the area did not allow itself to such an extreme commercial operation. She noted that under State Water Law a domestic well was only authorized to draw 1,800 gallons a day. A four-person home would use 200,000 gallons a year and this project could use in excess of 1.4 million gallons a year. She did not see how that would meet State Water Law.

Darlene Huff, 3390 Quilici Road, suggested that even if the Board continued this the developer could not change the most important things in the area that were wrong. They could not change the road; Washoe County was not going to come out and widen the road, they would not go put a culvert in the ditches and they were not going to make the road safe. The developer could not change the safety to all of them that lived there and they could not change the safety of the people that would be put in the home. She said the Board heard what the emergency response time would be; what would happen on that road when there was a response. She stated it made no sense and it was a project that needed to be put somewhere else that had better sewer and water. She urged the Board to stop this and quit wasting everyone's time. She said this was a commercial business and the residents would fight it all the way to make sure it was not built.

Rick Matulich, 3500 Quilici Road, stated the items people before him presented spoke volumes and he could go through his list and reiterate the same impacts that this project would do. One that stuck in his mind was that this past year he had two evacuation notices and in the past five years they had six evacuation notices. He said there was only one road going in and out and he was not sure if the safety factor would be there for a facility such as this. He said he was asked to build the original home and it was built of pressed board and Styrofoam, very efficient and very good for a residential home, but he was not so sure how safe that was for a commercial building.

Cheryl Vauk said she was speaking for a couple of her neighbors, Ken Zunino 10970 Dryden Drive and Mark Campbell, 3360 Quilici Road. She read their letters into the record. Their main concerns were on average most of them spent \$7,000 to \$10,000 deepening their wells for normal water use the last few

years. They felt a group home would use more water and they would have to dig even deeper. They all requested denial of the Special Use Permit.

Ron Bailey, Quilici Road, said the road narrowed, was poorly maintained, and had corners that blocked visibility, but the most important thing he saw was there were a lot of children that rode bikes on Quilici Road and they were not aware of all the dangers. He thought all the things mentioned about the roads, including Quilici Road being a dirt road would be a big danger to the children if traffic was increased on those roads.

Carol Reichman, 10980 Dryden Drive, stated she had been flooded in her home many times; the ditches had been washed out and there was still a hole at the beginning of Dryden Drive. She read a letter from Lisa Houserman, 11010 Dryden Drive. She talked about flooding, dirt roads, medical needs and emergency evacuations. She read another letter from Gayle Nelson which talked about traffic, speeding, flooding, and fires.

Sean Singer, 3370 Quilici Road, read a letter from Peter Degrazia regarding Dryden Drive's condition, increased traffic, the intersection of Holcomb Road, accidents, and the need of four-wheel drive during snow conditions. He read a letter from Marilyn Parsons which discussed decreased home values, narrow streets, decreased pedestrian safety, emergency evacuations, and decreased groundwater.

Bruce Meissner, 3375 Quilici Road, said he lived directly across the street from the proposed project. He said his children rode their bikes down the road and he wanted to keep that quality of life. He said when this project was first proposed he thought it was the most irresponsible project regarding the disregard for the quality of life in the area. He said when you drive to the end of Dryden Drive and Quilici Road there was not a stop sign and the reason for that was there was not a lot of traffic. He noted that directly across the street from the project were all their mailboxes, but the road was not very wide and everyone stopped there to get their mail. He said the impact on the children would be detrimental because there were two bus stops located there. The kids were everywhere playing, riding their bikes and jumping on the bus.

Ryan Newmarker, 3450 Quilici Road, said he was a third generation Nevadan and there were few places in Reno to have a little room to grow and play. He stated there was so much of Reno blended together, but Holcomb Ranch, Huffaker, Quilici, Pleasant Valley and Verdi still had a little bit of room to grow and where children could run and play. He said there were a lot of other commercial areas in Washoe County to build this type of project, which would be safer for their patients and closer to resources for the patients. He discussed a fire that happened in the area and there were no fire hydrants. He said garbage trucks and fire trucks could not turn around on the roads.

Chair Toulouse closed public comment and noted the Applicant had asked for a continuance until the next meeting. He called for a motion.

Member Lawrence moved to continue this item to the meeting in August. Member Stanley seconded the motion, which carried unanimously.

B. Administrative Permit Case Number WADMIN17-0003 (Powning DAS) – For possible action, hearing, and discussion to approve an Administrative Permit to allow the construction of a detached accessory structure that is larger than the main dwelling on the parcel. The proposed detached accessory structure is a 4,000 square foot pre-fabricated metal building and the existing main dwelling is a 1,310 square foot single story structure.

- Applicant: Powning Family Trust
- Property Owner: Powning Family Trust
- Location: 265 Bridge Street, Verdi
- Assessor's Parcel Number: 038-072-19
- Parcel Size: 1.61 acres
- Master Plan Category: Suburban Residential (SR)

- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Verdi
- Citizen Advisory Board: West Truckee Meadows/Verdi Township
- Development Code: Authorized in Article 306 Accessory Uses and Structures; and Article 808, Administrative Permits
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 8, T19N, R18E, MDM, Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner
- Phone: 775.328.3626
- Email: cgiesinger@washoecounty.us

Chair Toulouse opened the public hearing. Chad Giesinger presented the Staff Report. Chair Toulouse called for the Applicant to come forward. Gregg Powning, 25 Night Owl Drive, said he was born and raised near the property and his family had this property for nearly 100 years. He said he did not want anything detrimental or to cause any problems, but they would like to make use of the property as a private storage area to park some of their RV's and get them out of the sun. He stated they felt there was plenty of room to construct the building and they had no objections from any of their neighbors.

Chair Toulouse opened public comment. Cathy Brandhorst discussed issues of concern to herself. Chair Toulouse closed public comment and called for any disclosures from the Board. Chair Toulouse stated he knew Kyle Powning. DDA Edwards asked Chair Toulouse if they had any business relationship. Chair Toulouse stated no. DDA Edwards asked if he felt this was a type of acquaintanceship that would impair his ability to be impartial. Chair Toulouse responded no. DDA Edwards stated the statute dealt with pecuniary interest, which it seemed there was none, and it dealt with receipt of a gift or loan in connection with the matter, which it did not sound like was applicable. He said the only other possibility would be a commitment in a private capacity to the interest of the other. He asked Chair Toulouse if he had made any commitments in any capacity to the owner. Chair Toulouse responded no and said he would not recuse himself.

Chair Toulouse called for discussion. The Board members all felt this was a good project. Chair Toulouse called for a motion.

Member Thomas moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN17-0003 for the Powning Family Trust, with the conditions of approval included as Exhibit A to this matter, having made all four findings in accordance with Washoe County Code Section 110.808.25. Member Lawrence seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Verdi Area Plan;

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;

3. Site Suitability. That the site is physically suitable for a detached accessory structure, and for the intensity of such a development; and

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

C. Special Use Permit Case Number WSUP17-0005 (Old Ophir Ranch) – For possible action, hearing and discussion to approve a special use permit for an equine retirement facility under the commercial stables commercial use type. The facility is proposed to board up to 20 horses, plus the owner's six personal horses. The applicant also requests a reduction in parking and landscaping standards, to allow for: one less required parking space; decomposed granite instead of the required paved parking and maneuvering surface; open fencing instead of the required solid decorative wall or fence between the property and adjoining residential uses; and the placement of one tree every 40 feet instead of the required one tree every 20 feet adjacent to residential uses.

- Applicant/Property Owner: Lea Ann Canavan
- Location: 0 Old Ophir Road, immediately south of its intersection with Washoe Drive, and approximately 1,000 feet east of Highway 395
- Assessor's Parcel Number: 050-210-15
- Parcel Size: ±6.41-acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, *Special Use Permits*
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 26, T17N, R19E, MDM, Washoe County, NV
- Staff: Kelly Mullin, Planner
- Phone: 775.328.3608
- Email: kmullin@washoecounty.us

Chair Toulouse opened the public hearing. Trevor Lloyd, Senior Planner, presented the staff report in Ms. Mullin's absence. Chair Toulouse opened up questions to the Board. Member Stanley said he did not understand the parking for handicapped or special needs. Mr. Lloyd stated the intent was that this was a very low intensity use. He said the idea was not for this to be a typical training facility, but rather a place for people to bring their horses that they would likely visit on a very infrequent basis. For that reason, there was no anticipated need for a lot of parking.

Member Lawrence asked if the CAB voted on this. Chair Toulouse said they did and he saw the first presentation was to neither approve nor disapprove. Member Lawrence said this was a commercial operation. Mr. Lloyd stated it was a commercial operation in that it was allowed under the Commercial Use type table; however, there were a significant number of differences between this type of a commercial use and a high-intensity retail type of use. He said he did not know if you could necessarily compare the two.

Member Hill said there was an existing building and she wondered if it was a residence. Lea Ann Canavan, Applicant, said it was a small shed with two sheds for horses to go in and a small tack room, which was there when she bought the property. Member Hill said there was also a proposed house and barn, and she wondered if she planned on living there. Ms. Canavan stated she did and it would be her primary residence. Member Hill asked if she was being required to pave the handicapped spot. Eric Hasty, Wood Rodgers, stated per Code the handicapped spot would have to be paved for accessibility toward the commercial structure. He explained the commercial structure would be the house and two rooms of the house would be dedicated as an office and bathroom, which would be open to the public and the rest of the house would be off limits.

Member Lawrence asked what the reason was for the reduction of a tree barrier from every 20 feet to 40 feet. Mr. Hasty stated that would fit more with the character management area; they wanted to preserve

open pastures and they thought it would be appropriate to reduce the amount of trees to preserve more scenery. He said it would just be on the east and west boundaries.

Member Thomas said the property owner was Ms. Canavan, but it also showed a Leonard Routt was an additional owner. Mr. Hasty stated the day they submitted the application, Ms. Canavan was going through the process of obtaining the property and Mr. Routt was the current owner. Member Thomas stated within the application (Exhibit G), the original request was for 20 horses to include the six the owner had. Mr. Hasty responded it would be 20 boarded horses plus her six horses.

Member Stanley asked if the special conditions would be for a requirement for the appropriate number of trees or was the special condition to be fewer trees. Mr. Lloyd said the Code required one tree every 20 feet and the Applicant was asking for one tree every 40 feet. He said staff was recommending keeping the Code requirement of one tree every 20 feet.

Chair Toulouse allowed for the Applicant's presentation. Mr. Hasty went through the Applicant's PowerPoint presentation.

Member Stanley stated the idea of parking, visual impact, water and manure were well addressed; however, he wondered why there was a request in the number of parking spaces. Mr. Hasty stated they combined two parking spaces into one to make it an area where a truck with a horse trailer could park.

Member Lawrence stated enough commercial water rights were available and he wondered what type of water it was. Mr. Hasty stated the Applicant had domestic and surface water rights, but they needed commercial water rights. He said they contacted the State Water Authority and they calculated how much water would be used and determined that there were water rights available for that. Member Lawrence asked if he knew the acre feet or approximation of the additional amount. Mr. Webb stated on page four of six in the Staff Report it showed the proposed conditions of approval specific to the water rights. He noted it had to be ground water rights and it talked about the water demand. Member Lawrence stated in the presentation, he wondered where the property was. Mr. Hasty showed the Board the subject property on his map.

Chair Toulouse asked how the manure would be managed. Ms. Canavan responded at the current time, she reached out to local people in the gardening and landscaping field as well as some of her neighbors and her plan was to reach out to community gardens, City of Reno and Carson City to see if there was a need. She said right now she had a man who picked up the manure weekly and then what she did not use, he took to build garden beds at his facility in Steamboat Hot Springs. She reached out to four other places and they were interested in picking up the manure. She explained she would purchase a dump trailer and haul it away to people who did not have a trailer to come and get it. She said she would also compost some of it. Chair Toulouse said if she sold it or gave it away to gardeners or other commercial operations how many vehicle trips would that generate every day. Ms. Canavan said it would not be every day; the man she spoke about only came every Monday and picked up one to two loads. She said that had been with 20 head of horses.

Chair Toulouse opened public comment. David Cowan, 880 Old Ophir Road, said he did not think the required findings had been found. He thought this business would be harmful to him as an adjacent neighbor. He said the operation would be 24-hours a day, 365 days a year and a lot of dust would be generated by ATVs and tractors. He said the smell would be unavoidable being so close to his property and he would have no privacy in his own yard. He explained he was on disability retirement for medical reasons such as COPD, Asthma and breathing problems. He was afraid this business would cause him to move. He thought there were several other appropriate zoning designations where this type of business would be allowed. He was not just a concerned neighbor, even the CAB raised concerns at their two meetings. He thought they were trying to shoehorn a commercial business into a residential area. He said staff said it was not conforming and the actions were not addressed and he had problems with commercial property on this land as there were other alternatives. He said 11 other clients of Ms. Canavan did not recommend this, they

said she was good with horses, but that was not relevant with this Special Use Permit. He said the urine from the 26 horses could affect the groundwater, which at the moment was only about four feet down.

Patrick Quinn, 909 Washoe Drive, said his only issue was the evacuation plan. He was gone on military orders during the fire in 2012 and he had two horses and his friends had to fight law enforcement to get to his property to remove his horses. The last fire cut through Washoe Valley and closed off the whole route to the south so anyone trying to come up from the south could not. He wondered if there were no trailers on the property for evacuation, how they would get people there to help her get them out. If the Permit would go through, he would like a solid wall because he lived across the street from the subject. He did not think trees were going to block a lot of the view. He said 26 horses was a lot for six acres, but that six acres included easements, so it was only about four acres. The reason for asphalt for the driveway and turnaround would be for dust abatement, because he pulled a trailer in and out of his driveway, which was dirt and he knew his neighbors probably did not appreciate it. The asphalt should be there so any movement of vehicles would keep the dust down.

Jerry Pieretti, 905 Washoe Drive, said his question was why put this in a residential neighborhood. He said he was retired and he looked at the zoning requirements before he bought the property four years ago and commercial zoning was located to the west. He said the neighborhood had to look at this project and he said he heard others wanted to erect buildings and do commercial work in those buildings. He thought people might start selling their property because others could bring in more commercial properties. He said he witnessed a resident on Viola Drive, which was a quarter of a mile away and they put four horses on one acre and that acre was almost decimated. He had to take the horses off and asked neighbors to put them in different areas so he did not lose his pasture.

Cheryl Pricco, 865 Old Ophir Road, said the picture that was presented which showed all the trees was her property and her trees were six feet apart. She had block walls because the wind in Washoe Valley whipped like no other. She said she had a 130mph roof on her barn, but she did not have any horses. She said her husband had COPD and with the addition of 26 horses across the street he would likely experience consequences because of the dust. She stated they bought their home for enjoyment and there were many pieces of property in Washoe Valley that would accommodate 26 horses. She said she did not know the Applicant, but she thought Ms. Canavan should have approached the neighbors and spoke to them about this. She said she read the 11 letters in support of the project, but they were all boarders of hers and they had a high regard for her ability to take care of the horses. She stated this was not about her ability to care for horses; not one of those 11 people lived in the neighborhood. Originally, Ms. Canavan was not going to live on site, but she was going to now, but she would not be their 24 hours a day, seven days a week. She said they had two fires since she moved there and it took her 15 minutes to get 1,200 feet down her street because of the fire trucks and emergency vehicles. She wondered how they would be able to get that many horses out during a fire.

Dr. Charles Goldman, 850 Old Ophir Road, said he was a retired Water Quality Professor and he thought we were facing a world water crisis and this project fit right into the crisis problem associated with manure. He did some calculations and there would be about 1,800 pounds of manure a day; that was an accumulation of 12,600 pounds per week. Unfortunately, a lot of the manure would be scattered on the pasture but there was a very high water table. He said he moved recently to his property and it was a residential area where people kept a horse or two, but a corral of 26 horses with horse flies, dust and air quality problems was over the top. He asked if any of the Board members would permit a 26-horse corral next to their property. He was Director of the Tahoe Research group and one of the things they acquired early in the Tahoe history was to remove cattle grazing and associated horses from the Tahoe Basin. He said they did that over 40 years ago because of the pollution to the Lake that would occur if grazing, which was then in place in the Basin, were to continue. He noted he published three papers recently on wilderness medicine and water pollution in the high Sierra. He said it was a very serious problem magnified by our general shortage of water. He said he was dealing with wells this summer that were sucking air because the groundwater levels had dropped. He opposed this on environmental reasons.

Cynthia Hahn, 880 Old Ophir Road, said they submitted letters and a petition signed by 42 people in the neighborhood and she wondered if those would all be read before the Board made their decision. Mr. Webb stated those records were submitted to the Clerk and copies were given to the Board; however, there was no requirement to read them. She asked what was more important to the Board; people or horses. She said there was a nuisance in fact by putting 26 horses on what would be left of 4.5 acres. She noted there was a Nevada Supreme Court case where a windmill generating electricity was not allowed to be put in even though under Nevada Statute it was encouraged. She said this was not even encouraged under Nevada Statutes. One of the things they were looking at was that it was both substantial and unreasonable. She said people living in the community would regard the alleged nuisance as definitively offensive, annoying, intolerable and unreasonable when the gravity of the harm outweighed the social value of the activity alleged to cause the harm. It was nice that Ms. Canavan wanted to help out retired horses, but she thought retired people needed help too. She hoped the Board would deny the project, but if they approved it the neighbors were going forward because Nevada case law was on their side and they would win. The University of Nevada Cooperative Extension even said that lack of adequate room for 26 horses would result in overgrowth of noxious weeds and it would cause poor or no recovery from overgrazing to the pasture. She said there was no way to rotate these horses through these small pastures. Horses fight, mares in season make lots of noise, they panic under certain conditions and there would be no one on the property at night to help the horses.

Dave Gilbert, 170 Vermillion Road, stated he wanted to speak about the character and integrity of Ms. Canavan. He said he met her when he needed a place to keep his horses and found her facility to be extremely well-organized and clean. He noticed there were not a lot of flies, not a lot of dust and she had quite a few horses. The level of cleanliness was remarkable and Ms. Canavan was on site. He explained they decided to keep their horses with her and she required veterinarian records to ensure his horses did not have any diseases. He said he read most of the letters for and against this project and he concurred with the letters of support. He said for those people not in support he would be concerned also if he did not know the character of the person applying for this project. He observed the facility and Ms. Canavan for one year and everything continued to be well-organized and clean and Ms. Canavan actively cared about her horses.

Susan Malby-Meade said she lived in this neighborhood for almost 30 years. She stated she understood what it meant to have a neighbor who cared for their property and their animals. She said Ms. Canavan kept her horses for three years, but she had never been in a situation where the care of the property was as clean and healthy for the horses as this, or as healthy for the neighbors. Ms. Canavan had help or cleaned the stalls daily herself, the horses were fed and watered every morning and every night whether she was on the property or not and turned out maybe two hours a day every other day; she had a good rotation system going that did not impact the pasture. The main thing that impacted the pasture had been the drought. She said when she lived in Washoe Valley she knew all about the wind, the dust from the Lake itself was more of a problem than it was from a neighbor. She said she watched Ms. Canavan put in a pasture that mitigated the dust blowing and she knew that Ms. Canavan had the capability to manage both the pasture and the cleanliness of the facility. She said there would not be any traffic because these were older horses and people would not be going out there on a regular basis to ride them. She noted the noise and traffic would not be a concern.

Lyn Mundt, said one of the things that distressed her was the use of the word "commercial" for this particular use. It was commercial because she would accept money for taking care of retired horses; other than that it was not commercial because people would not be coming to the property. By and large this was not like any other commercial operation. The horses were not commercial; they were being taken care of. She thought it was understood the equine facility was allowed with this zoning and the Special Use Permit was for conditions to be placed on it so that it would not be detrimental. In the findings, staff found that it would not be detrimental and three pages of conditions would make sure it was not detrimental. She said Ms. Canavan had 30 horses on a site the same size, they were well taken care of, there was no smell, there was no fly problem, there was no disease and the horses had a shelter and an area to move around in. There were several facilities that did very well on much less land. She explained there were 30 at Avalon,

there were probably 50 horses at Star Street and they handled the manure fine, whether they were able to have it hauled for uses for gardens or whether they had a dumpster that came weekly, the manure was hauled off. The structures should not interfere with any views because they were in the center of the lot and there would be trees.

Chair Toulouse closed public comment and called for any disclosures from the Board. Hearing none, he opened up discussion for the Members.

Member Hill said she was concerned about the neighbor's opposition. She was leaning in their favor.

Member Stanley stated he had the opportunity to attend two of the CAB meetings where a lot of concerns were shared. He noticed one of the conditions he was happy to see was the call for more trees instead of fewer trees. He understood why parking spaces were combined for the ease of trailers, but he did not understand why gravel was going to be used instead of asphalt. He wondered about the wisdom of open fence when some closed fence might be appropriate to mitigate dust, wind and noise. He said it appeared the Permit could be appropriate for the region, but because of all the concerns from the residents more conditions could be placed on the application.

Member Thomas said he understood the need for a place to be turned out when they were old and not going to be ridden any longer, but on the other side of that issue was where the lot was located and where the prevailing winds came from across that Valley would kick up dust right into the residential areas, which he thought would be an issue. Not only that, it would expose numerous people in a northeasterly direction. As for conditions, he was not too sure of a solid fence because he did not know if you could build a solid fence that would stand within Washoe Valley because of the winds. He thought the more trees they had the more it would mitigate dust and block the view from the neighbors. He asked where the number 20 came from for the horses that would be there.

Chair Toulouse said there had a number of people for and against this issue, but he explained the Board had to make a decision on what the Permit would be. It was not a question of integrity or work ethic or character, what he was struggling with was that he could not make the findings they needed to make to approve this Permit. He thought the site was too small for the intensive use, it was detrimental to the character of the neighborhood and it would have a negative impact on the character of the community as a whole and it was not consistent in his mind with the South Valleys Area Plan.

Member Lawrence said it was the age old issue of commercial versus residential. He said they had projects like this before them and one of the oppositions he had to those was it was an abuse of a privilege. People had horses in the area, one or two horses, but when we started concentrating these animals other things came to his mind, such as the nitrates from concentrated animal feeding operations and shallow water tables. He said his biggest concern was the dust issue; 26 horses would masticate the soil seriously over time, especially during drought cycles. When the wind blew the dust would pick up and there was a good chance that it could block out driving capabilities. He said given what was presented today and his concerns with this project, he was inclined to deny the Permit.

Member Hill asked if there was a zone that allowed for this activity without a Special Use Permit. Mr. Webb stated Exhibit C, Attachment 1, showed an extract of the Code explaining commercial stables. He said the answer was no that all regulatory zones required a Special Use Permit where it was required to break a Code. He explained the different types of zoning to the audience that required Special Use Permits. Member Stanley stated the fact that the Applicant would be accepting money on a commercial basis was the reason for the Special Use Permit, but there was not a restriction on the number of horses on a residence. Mr. Webb clarified there was no restriction on parcels one acre in size or larger as long as the horses were being maintained according to County Code and County Health Regulations.

Member Thomas stated if he had 26 horses of his own on his own property he would not have to have Special Use Permit. Mr. Webb stated that was correct as long as they did not become a health concern or fell under cruelty to animals.

Member Stanley stated if no money was changing hands, no matter who owned it, then a Special Use Permit under the current zoning would be required. Mr. Webb stated money did not have to change hands as long as there was a public offer for taking care of other people's horses, even if it was just giving them hay, that was still offering a service, which was classified as a business.

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

Member Hill moved that after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Board of Adjustment deny Special Use Permit Case Number WSUP17-0005 for Lea Ann Canavan, because the required findings could not be made regarding Site Suitability and Issuance Not Detrimental. She felt the site was in a residential area that many of the neighbors were in opposition to and also it seemed detrimental to the public health and safety if there was to be an evacuation and removal of those horses in an area prone to fire. It would also be detrimental to the flow of traffic in an evacuation situation. Member Lawrence seconded the motion, which carried unanimously.

1. Site Suitability. That the site is physically suitable for the proposed development, and for the intensity of such a development;

2. 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

4:11pm The Board took a recess.

4:17pm The Board reconvened with all members present.

D. Administrative Permit Case Number WADMIN17-0004 (Classical Tahoe) – For possible action, hearing, and discussion to approve an Administrative Permit and outdoor community event business license application, and associated license conditions for Classical Tahoe, an outdoor concert event to be held at the Sierra Nevada College in Incline Village, Nevada on July 28, 29, and 30, August 1, 4, 5, 8, 11 and 12, 2017. The proposed outdoor concerts will be held between the hours of 5:00 p.m. and 8:30 p.m. All proposed concerts will be unamplified classical music located within a portable tent erected on the College campus for the event. Primary participant and spectator parking will be within the College campus (APN: 127-040-10) with additional off-site (overflow) parking at the Incline Village General Improvement District (IVGID) Recreation Facility (APN: 127-040-07), if needed. Event organizers estimate that approximately 1,300 participants and spectators will take part in the event during any one three-day event period, with a maximum of 500 participants and spectators on any one day of the event. If approved, authorize the Director of the Planning and Development Division, Community Services Department to issue the outdoor community event business license when all pre-event conditions have been met.

- Applicant: Classical Tahoe – Kirby Combs
- Property Owner: Sierra Nevada College
- Location: 948 Incline Way
Incline Village, NV 89451
- Assessor's Parcel Numbers: 127-040-10 (College) and 127-040-07 (IVGID Recreation Center)
- Parcel Size: 17.05 acres (College), 1.4 acres (Recreation Center)

- Master Plan Category: Commercial (C)
- Regulatory Zone: Public and Semi-Public Facilities (PSP)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 808, Administrative Permits; Article 310, Temporary Uses and Structures; and Washoe County Code Chapter 25, Business Licenses Ordinance
- Commission District: 1 – Commissioner Berkgigler
- Section/Township/Range: Within Section 23, T16N, R18E, MDM, Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.3622
- Email: rpelham@washoecounty.us

Chair Toulouse opened the public hearing. Roger Pelham, Senior Planner, presented the Staff Report. Chair Toulouse called the Applicant forward. No one was present; therefore, he opened public comment. Hearing none, he called for any disclosures from the Board. Chair Toulouse disclosed he went to the event last year and thoroughly enjoyed it. He called for a motion.

Member Hill moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN17-0004 and the outdoor community event business license application for Classical Tahoe, with the business license conditions included at Exhibit A, for this matter, having made all relevant findings in accordance with Washoe County Code Section 110.808.25. She further moved to authorize the Director of the Planning and Development Division, Community Services Department to issue the outdoor community event business license when all pre-event conditions have been met. Member Stanley seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;

3. Site Suitability. That the site is physically suitable for an outdoor community event and for the intensity of such a development;

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area; and

E. Variance Case Number WVAR17-0002 (Fisher/Kintz Front Yard Setback Reduction) – For possible action, hearing, and discussion to approve a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback includes a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also includes a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a “decorative truss” at the front of the garage.

- Applicant/Property Owner Michael Fisher and Susanna Kintz

- Location: 567 Alden Lane
Incline Village, NV 89451
567 Alden Lane, approximately 150 feet northeast of its intersection with Tyner Way
- Assessor's Parcel Number: 122-133-02
- Parcel Size: ±0.39 acres (±16,988 square feet)
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 17, Township 16 N, Range 18 E, MDM
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.3622
- Email: rpelham@washoecounty.us

Chair Toulouse opened the public hearing. Roger Pelham, Senior Planner, presented the Staff Report. Chair Toulouse called for any questions from the Board. Hearing none, he opened up the presentation to the Applicant.

Susanna Kintz, owner, stated the reason for the denial recommendation from Staff was their finding of a lack of peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner to comply with the 20-foot setback requirement. She submitted the Board should reject Staff's recommendation of a denial and grant the Variance. Staff's finding was inconsistent with respect to Variance applications of similarly situated properties. Denial of the Variance by this Board would constitute an arbitrary and capricious action that would deny her and her husband due process of law.

Ms. Kintz stated the subject property was located in Incline Village, and like all the properties she would reference it was subject to a 20-foot setback. The previous structure was old and had asbestos so it had to be torn down. The subject was approximately 6,700 feet above sea level and in winter months it was subject to hazards created by snow and ice. If the Variance was granted the covered porch would still be approximately 20 feet from the street, which was significantly farther from the street than a good majority of the homes in the area. She said the subject had a 30 percent grade, wherein some of the properties staff had recommended approval of a Variance had only a 25 percent grade. She explained the grade was significant, because the steeper the grade the higher the structure must be in order for the structure to sit within the 20-foot setback. She demonstrated the higher the structure was suspended over the grade level, the greater the danger would be to the inhabitants and visitors due to falls in icy conditions. She felt the slope would directly impact the determination of whether there were particular and exceptional practical difficulties to, or exceptional undue hardships upon the owner to comply with the 20-foot setback requirement.

Ms. Kintz stated that TRPA requirements restricted the overall height of the structure, which would increase the slope of the driveway and the walkway to the home. She felt the greater the slope and the length of the driveway would cause hazards created by snow and ice. She stated the TRPA height restrictions impacted the determination of whether there were particular and exceptional practical difficulties to, or exceptional and undue hardships upon the owner to comply with the 20-foot setback.

Ms. Kintz discussed 541 Dale Drive and 547 Dale Drive that were in her neighborhood, which were similar in size, grade, and slope, had the same TRPA requirements, and were subject to the same hazards from snow and ice as the subject; however, they were granted a Variance. She presented a copy of the

Staff Report for 541 Dale Drive. The Variance for 541 Dale Drive reduced the 20-foot setback to 2 feet, wherein the Variance she was requesting was only for a setback of 9 feet 10 inches.

Ms. Kintz stated staff supported approval of the application for Dale Drive on the grounds that the property had a 25 percent grade and the TRPA restrictions would require a longer driveway if the Variance was not granted, which staff found would create hazards from snow and ice. Both of those factors were present in her application and she submitted there was no discernable reason why staff would recommend approval for Dale Drive and recommend denial for her property. She stated staff found special circumstances and hardships existed due to slopes and access, and with the TRPA tree retention requirement the property on Dale Drive was restricted in the placement of the new residence and garage. Staff further found that due to the steep slopes on the property, the proposed garage placement was optimal so as to avoid a steep driveway and access. She said in addition the same hazardous conditions that merit approval of a Variance for a garage within the 20-foot setback were present with respect to a covered porch. Whether they were talking about a walkway or a driveway to a covered entrance, the greater the length and the slope the greater the hazards created by snow and ice.

Ms. Kintz stated it was important to note that in recommending approval of the Variances for 541 and 547 Dale Drive, staff did not recommend limiting the Variance to the garage, but rather recommended the Variance for the garage, covered entry and the home. She said the Board of County Commissioners (BCC) recognized a covered porch was necessary to reduce the hazardous conditions caused by snow and ice. She said the application submitted for 557 Dale Drive recommended denial of a new entrance for the home within the setback for substantially the same reasons for their recommendation of denial for the subject property. Staff dismissed the need for a covered structure to mitigate hazards caused by snow and ice and this Board denied the Variance, but the BCC reversed that decision and the Variance was granted. She understood the BCC would not have granted the application unless they found there existed particular and exceptional practical difficulties to, or exception and undue hardships upon the owner to comply with the 20-foot setback. The distance from the street to the covered entrance for 557 Dale Drive was 6 feet, wherein it would be approximately 20 feet for the subject property.

Ms. Kintz stated staff's recommendation of denial was also inconsistent with the Variance granted for numerous other properties in the same area. She said that structure set well back within the setback line, five or six feet of the street and the same was true for 541 Dale, 553 Dale, 555 Dale, 557 Dale Drive. All of those properties had structures that were significantly closer to the street than the subject property, had the same or similar slopes and were subject to the same TRPA restrictions and the same winter conditions.

Ms. Kintz stated the only difference between the application for the subject property and 541 Dale Drive and 547 Dale Drive properties was the timing of when the application was submitted. In the case of the applications that were recommended for approval, staff reviewed the application prior to the commencement of the new construction. Whereas, with regard to the subject the application was submitted after construction began. She said the timing of the submission of the application should not affect staff's findings.

Ms. Kintz stated in designing the new structure they were able to position the garage within the 20-foot setback, but they were not able to accommodate a covered porch. She said she spent a significant amount of time trying to design a covered entry within the 20-foot setback and hired an architect to help her. The choices were to push the structure back beyond the 20-foot setback, which would have created all the hazards staff recognized in recommending approval of 541 and 547 Dale Drive, place the covered structure within the interior of the home which would have created snow melt and flooding issues, or place the entry on one end or the other of the home. There was no practical way to accommodate a covered porch within the constraints presented by the steep slope and the TRPA restrictions.

Ms. Kintz stated they went forward with construction without first getting a Variance because it would have required waiting another season to start. She thought the Board would grant the Variance for the covered porch or they would not get one, there was just no practical way to design the covered porch with

the constraints they faced. They did not mean to in anyway, disrespect the Board or the importance of the work they did by going forward with the construction without first applying. A decision by this Board, based on the unsupportable and inconsistent finding, would be arbitrary and capricious and would deny them due process. It was a fundamental principal of the system of law that people be held to the same rules of law. She said there should not be arbitrary or capricious enforcement of the rules for two applications that were granted for conditions that were identical to the subject and she said the Variance should be granted.

Chair Toulouse opened up questions to the Board. Member Stanley asked if Ms. Kintz was aware at the beginning of the construction that a Variance would be required. Ms. Kintz stated they knew they could not design a covered porch and the only way to get one would be to apply for a Variance. She said they went ahead with the construction knowing they would have a house without a covered porch or that the placement of the property was dictated by the same reasons the other properties were. Member Stanley asked when she consulted with Planner Pelham and at what point did he inform them of the findings and that she was not meeting the requirements. Ms. Kintz stated she did not consult with him, she filed the application. She said she understood that since the building was already there, there was no longer a need for a Variance. She said the BCC must have found the fact that the other homes on Dale Drive were already there, did not mean there wasn't a need for a covered entrance way to mitigate the snow and ice.

Mr. Pelham stated there was no requirement for the Applicant to meet with staff prior to submission of an application. He said in this case he called the Applicant and left two or three messages to encourage them to withdraw early in the process while he could still issue a refund, because it was clear to him that given the limitations of his analysis for a hardship, this was probably not a good candidate for him to go forward with a recommendation of approval.

Member Hill said Dale Smith designed this house. Ms. Kintz stated he helped her design it and helped her with the exterior. Member Hill asked if she was an architect. Ms. Kintz stated she was not, but she designed homes. She said the process of getting the plans finalized took about three months longer than they thought. She thought there would be time to get a Variance between the deadlines for building, but unfortunately she hired someone to do the work and he was not able to deliver, so they had to go forward.

Ms. Kintz stated the fact that the building had already been started and permits approved did not deflect in any way from whether or not the circumstances and the findings should be made and the Variance granted. Member Hill said the Board had to decide on this project alone and they could not look at Dale Drive projects. She went on to clarify the Board had no recollection of what those projects were, how that got decided, was this Board involved in those, or did they go to the BCC on appeal. She informed Ms. Kintz she was entitled to the same appeal process and the Applicant's property could not be compared to other properties. Ms. Kintz said it would be one of the things that would be looked at if it went on to an appeal, whether or not this decision was inconsistent with other decisions and that was why she brought it to this Board's attention. She said she was not able to work within the 20-foot setback line and create the structure that the other projects were able to create with a Variance. She said the fact they went forward did not mean those circumstances were not there; they were there because those properties she mentioned were identical to the subject. The fact they went ahead and got a permit to build it without a front porch was because they were hoping they could come back and get a Variance. She said she had the same constraints the other properties had and she did the best she could to work within those constraints, but that did not mean she should not be able to have the benefit of a Variance when her neighbors who had the exact same circumstances were able to get one.

Member Thomas requested clarification. He stated the Applicant bought the property with a house on it, then tore it down and redesigned the current house that was being built. He said it was designed without a covered front porch and now the Applicant was before the Board saying there was an undue hardship and she needed a Variance for a design she came up with without a front porch to begin with. Mr. Kintz stated the design had a front porch it was just not covered and yes she had an undue hardship in that she could not get a covered front porch within the 20-foot setback line. Member Thomas asked her why she did not design a home with a covered porch. Ms. Kintz stated because of the steep slope, together with the TRPA's

restrictions, would have required moving the house farther away from the street. If she did that it would mean a longer driveway, lower, steeper driveway. She said they probably would not have been able to do it because of the 14 percent restriction on the decline of the driveway. She said they positioned the home in the only place they could to not have those more dangerous, hazardous conditions. She said what they did was do the best they could to work within the setback, but they could not come up with a design that had a covered porch, which meant it would be exposed to the rain, snow and ice. She said the other Variances were not just granted for a garage; they were granted for the structure also. The fact that they were coming in after the fact should not mean that they did not have the same extenuating circumstances. She did not believe the fact they already had a permit and were under construction mitigated the findings.

Chair Toulouse opened public comment. Hearing none, he brought it back to the Board for discussion. Member Hill stated she was having a hard time finding the hardship. She said the Applicant designed the home, got a building permit, started construction and then decided they wanted something else.

Member Stanley stated typically Variances were some of the Board's easiest decisions, because they either met the requirements or not. He agreed this project did not seem to meet the findings and he thought it might be arbitrary and capricious to invent a reason going in to the past that would allow the Board to manufacture those findings.

Member Lawrence stated it was unfortunate when regulations, specifically TRPA in this matter, seemed to be causing the most hardship. He stated in not allowing the home to be set farther back or it would be higher, which would cause the driveway to be steeper and it seemed like it was a TRPA issue more than the topography of the property. He said he saw no parking issues with the encroachment, no snow removal or snow placement issues, no street issues or visual obstructions,

Chair Toulouse said he did not see the special circumstance or the hardship and he agreed with Mr. Pelham's judgement in this matter. He said the Board decided every case, case-by-case, they did not consider what was done a hundred times before or what a neighbor might have. He said the Applicant was well within her right to appeal this.

Chair Toulouse called for a motion.

Member Thomas moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny Variance Case Number WPVAR17-0002 for Michael Fisher and Susanna Kintz, being unable to make findings 1, 2 and 3 in accordance with Washoe County Development Code Section 110.804.25. Member Stanley seconded the motion, which carried unanimously.

1. Special Circumstances. There are no special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; and the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property. Therefore, this finding cannot be made to support approval of the variance request.

2. No Detriment. Because there are no identifiable special circumstances applicable to the piece of property, granting the relief will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.

3. No Special Privileges. Because there are no identifiable special circumstances, granting the relief will 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 by allowing development that does not

conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.

F. Special Use Permit Case Number WSUP17-0009 (Truckee Meadows Water Authority) –

For possible action, hearing, and discussion to approve a special use permit to allow the construction and operation of a temporary water treatment facility (utility services civic use type) at an existing water well site. The treatment facility is proposed to be located within a tent-structure approximately 15 feet wide, 30 feet long and 15 feet in height. Operation of the treatment facility is proposed for a maximum of 24 months. With the review and possible approval of the special use permit, the applicant is seeking to vary the following Washoe County Chapter 110 (Development Code) standards: 1) Reduce all required building setbacks for the tent-structure as follows: side yard setback from 8 feet to 5 feet; rear setback from 20 feet to 7 feet; and front setback from 20 feet to 5 feet; 2) Reduce the required amount of landscaping from 20% of the site to that which is currently existing on the site; 3) Reduce the required parking surface from asphalt or concrete to the dirt or gravel currently existing on the site; and, 4) Allow one temporary parking space within the public right-of-way.

- Applicant/Property Owner: Truckee Meadows Water Authority
Attn: Paul Miller
PO Box 30013
Reno, NV 89520
- Location: 195 Milke Way, Sparks, approximately 300 feet north of
its intersection with Horse Springs Drive
- Assessor's Parcel Numbers: 530-502-02 and 03
- Parcel Size: 1216 square feet and 2500 square feet (total: ±.085
acres)
- Master Plan Category: Suburban Residential(SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Spanish Springs
- Citizen Advisory Board: Spanish Springs
- Development Code: Authorized in Article 810, Special Use Permits and
Article 806, Variances
- Commission District: 4 – Commissioner Hartung
- Section/Township/Range: Section 34, T21N, R20E, MDM,
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.3622
- Email: rpelham@washoecounty.us

Chair Toulouse opened the public hearing and called for the Staff Report. Roger Pelham, Senior Planner, presented the Staff Report.

Chair Toulouse opened up questions to the Board. Hearing none, he called the Applicant forward. Angela Fuss, Lumos, stated they had a couple of minor changes to the conditions. She said for the last 15 years they had seen elevated levels of nitrates and arsenic in the well water. She said that was a problem not unique to this well, but Spanish Springs in general. She explained the property was owned by TMWA so they currently had access to the site 24-hours a day and there was no existing Special Use Permit connected to the property. The subject was property Washoe County had when it was under Washoe County Water Resources and when the two merged it became a TMWA site. She stated their Special Use Permit request was for a temporary use; about an 18-month process where they were going to put a pilot project on this parcel. They asked for a two-year window so that they would have time to get it up and running and then take everything down when they were done.

Ms. Fuss stated the changes requested to the conditions would be 1.c.iv, which stated the Planning Department needed documentation that Washoe County District Health had approved a water project and they would like to change that from "approved" to "submitted" a water project. She said there was actually no formal application. She stated this would not affect the water, there was nothing connected to the distribution, and this was not an active well site. She went over the next change (1.f), which had to do with fencing. She said the condition now was written for them to install an 8-foot fence with slats all the way around the property. They would like to change that to install and construct an 8-foot fence on the front of the property. She showed the Board the front view and how it would screen the property. She explained on the south side of the property there was already an existing 6-foot fence near the neighbor, a wide gap and some grade change and beyond that there was some significant and mature landscaping. She said they did not think anyone would even be able to see the fence due to the mature landscaping. The other three conditions, items 1.j, 1.k and 1.l, had to do with construction hours and hours of operation. She said this facility was just basically a monitoring facility, so they would only have one staff member going to the site an hour or two a day. She said there would be no noise generated and no activity generated. She requested they put in an exception to allow for an emergency situation if staff needed to be there outside of those hours.

Chair Toulouse opened up questions to the Board. Member Stanley asked why they were seeing an increase in arsenic and nitrates in the water. Paul Miller, TMWA Project Manager, stated nitrate in the groundwater was increasing with time. He explained the standard was 10mg per liter for nitrates and this one was at about 20mg per liter. He noted arsenic was present in the Spanish Springs Valley and it was a little bit higher at this site, which made this a great site to challenge the treatment process they selected to pilot. He said groundwater was a vital component, especially for drought protection. Right now their strategy was to blend surface water that was sent to the Spanish Springs area and as the nitrate level increased in the groundwater, they would need more surface water. If they were to get more surface water, they would have to build large piping and large pump stations, which would be quite expensive. He said treatment was a good option to consider and this was very promising new technology. Member Stanley asked if the new technology increased the noise level. Mr. Miller stated no and no one should be able to hear it. He said the pump was submersible and they would take that pump out and disconnect it and put in a very small one for the pilot unit. He noted the pump and motor were underwater by 100 feet and there would be less noise.

Member Lawrence asked what the well depth was. Mr. Miller stated this was a well that came over with integration from Washoe County, which meant they did not design it. Typically the wells on the west side of Spanish Springs were in the 300 foot range.

Chair Toulouse called for public comment. Hearing none, he called for disclosures from the Board. There were no disclosures. Chair Toulouse opened up discussion to the Board. Member Stanley stated this sounded like a worthwhile project. He asked if Mr. Pelham had any concerns with the requested amendments to the Conditions of Approval. Mr. Pelham stated he did not.

Chair Toulouse said there would be an 8-foot fence in front of the facility and leave the rest of the existing fencing as is. Ms. Fuss stated that was correct.

Chair Toulouse called for a motion.

Member Stanley moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with conditions Special Use Permit Case Number WSUP17-0009 for the Truckee Meadows Water Authority, with the amended conditions of approval included as 1.c.iv 1.f, 1.j, 1.k and 1.l as included in Exhibit A to this matter, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Hill seconded the motion, which carried unanimously.

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

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;

3. Site Suitability. That the site is physically suitable for a temporary utility services use type, and for the intensity of such a development;

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area; and

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of any military installation.

10. Chair and Board Items

***A. Future Agenda Items**

There were none.

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

There were none.

11. Director's Items and Legal Counsel's Items

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

Mr. Webb stated the Snyder Variance was appealed to the Board of County Commissioners (BCC) on April 14, 2017. He explained this Board approved a 7-foot front yard setback and the BCC upheld the appeal and approved a 1.74-foot front yard setback. He said there would be a special meeting for this Board on July 12, 2017 at 12:30pm. He said on the June 13, 2017 BCC agenda was an action item to reappoint Member Thomas to this Board.

Member Hill asked what the status was for the Lake Tahoe School the Board heard earlier. Mr. Webb stated the application would be going to the BCC on appeal.

***B. Legal Information and Updates**

DDA Edwards stated he did not have any updates.

12. *General Public Comment

Chair Toulouse opened Public Comment. There was no response.

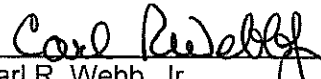
13. Adjournment

The meeting adjourned at 5:22 p.m.

Respectfully submitted,

Jaime Deller, Independent Contractor

Approved by Board in session on August 3, 2017



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