



# WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

## Board of Adjustment Members

Kim Toulouse, Chair  
Clay Thomas, Vice Chair  
Kristina Hill  
Lee Lawrence  
Brad Stanley  
Trevor Lloyd, Secretary

Thursday, February 1, 2018  
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, February 1, 2018, 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 1:34 p.m. The following members and staff were present:

Members present:	Kim Toulouse, Chair Clay Thomas, Vice-Chair Kristina Hill Lee Lawrence Brad Stanley
Members absent:	None
Staff present:	Roger Pelham, Senior Planner, Planning and Building Julee Olander, Planner, Planning and Building Trevor Lloyd, Planning Manager, Planning and Building Nathan Edwards, Deputy District Attorney, District Attorney's Office Donna Fagan, Recording Secretary, Planning and Building

### 2. \*Pledge of Allegiance

Member Thomas led the pledge to the flag.

### 3. \*Ethics Law Announcement

Deputy District Attorney Edwards recited the Ethics Law standards.

### 4. \*Appeal Procedure

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

### 5. \*Public Comment

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

## 6. Approval of Agenda

In accordance with the Open Meeting Law, Member Hill moved to approve the agenda of February 1, 2018. The motion, seconded by Member Lawrence, passed unanimously.

## 7. Approval of December 7, 2017 Minutes

Chair Toulouse made a correction – to replace Carl Webb with Trevor Lloyd under Members. Member Stanley moved to approve the minutes of December 7, 2017 as amended. The motion was seconded by Member Hill and passed unanimously.

## 8. 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. Administrative Permit Case Number WADMIN17-0011 (Sun Valley Center Pylon Sign)

– For possible action, hearing, and discussion to approve the construction of an internally illuminated pylon sign, 30 feet in height and 183 square feet in size. The sign is proposed to be approximately 13 feet in width. A pylon sign is a free standing sign that advertises multiple businesses on one site.

- Applicant: YESCO, LLC
- Property Owner: Sun Valley Center, LLC.
- Location: 5055 Sun Valley Blvd. ±400 south of 1st Ave.
- APN: 035-120-26
- Parcel Size: ±4.45 acres
- Master Plan: Commercial (C)
- Regulatory Zone: Neighborhood Commercial (NC)
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley
- Development Code: Authorized in Article 505, Sign Regulations
- Commission District: 3 – Commissioner Jung
- Section/Township/Range: Section 30, T20N, R20E, MDM,  
Washoe County, NV
- Staff: Roger Pelham, Senior Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775-328-3622
- E-mail: [rpelham@washoecounty.us](mailto:rpelham@washoecounty.us)

Roger Pelham, Washoe County Planner presented the Staff Report. There were no questions for Mr. Pelham. The applicant, Mark Stevens with YESCO was present for questions. There were no questions for Mr. Stevens.

The Members had no disclosures for this case.

Member Hill stated this would be an improvement to the existing conditions. Member Stanley said he agreed with Member Hill. This is a great way to use the new code to remediate old problems and make everyone happy along the way.

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

**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 Administrative Permit Case Number WADMIN17-0011 for YESCO and the Sun Valley Center, having made all four findings in accordance with Washoe County Code Section 110.810.30: Consistency, Improvements, Site Suitability, Issuance No Detrimental. Mr. Pelham said there is a correction to the code reference; the article should be 808, not 810. Member Stanley moved to approve 110.808.30 as amended. Member Thomas seconded the motion as amended. The motion passed unanimously.**

**B. Special Use Permit Case Number WSUP17-0023 (Williams Residence Grading) – For possible action, hearing, and discussion to approve a special use permit for Major Grading, including previous grading and additional grading and earthwork totaling approximately 197 cubic yards of excavation, 765 cubic yards of fill and disturbance of a total area of approximately 80,940 square feet (1.86 acres). Grading of more than one acre on a parcel that is less than six acres in size is Major Grading in accordance with the Washoe County Development Code at 110.438.35(a)(1)(i)(A).**

- Applicant: Gail Willey Landscaping
- Property Owner: Amour Property Mgt.
- Location: 5435 Mt. Rose Hwy, 2000' east of Fawn Ln. on north side of Hwy.
- APN: 150-021-12
- Parcel Size: ±2.49 acres
- Master Plan: Suburban Residential (SR) and Rural (R)
- Regulatory Zone: Low Density Suburban (LDS) and General Rural (GR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permit
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 25, T18N, R19E, MDM, Washoe County, NV
- Staff: Roger Pelham, Senior Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775-328-3622
- E-mail: [rpelham@washoecounty.us](mailto:rpelham@washoecounty.us)

Chair Toulouse asked for Member Disclosures. Member Lawrence said he has a business client, Ms. Lisa Williams. He stated he performed a pest control service on her property, and he had discussions with her about her property. Member Lawrence also stated he has a mutual friend from college who is dating Ms. Williams. Mr. Edwards asked Member Lawrence to state his friend's name, and if he knew the friend's opinion on this grading case, and if the friend was present in the audience. Member Lawrence stated the friend's name, and said he didn't know his friend's position on the matter, and that the friend wasn't present in the audience. Mr. Edwards stated because of the business relationship with the applicant, he recommends, in this situation, that Member Lawrence recuse himself and retire in the lobby while this case is being discussed. Member Lawrence removed himself from the board room. Mr. Edwards said this doesn't change the number of votes required.

Roger Pelham, Washoe County Planner presented the Staff Report. Chair Toulouse said we are looking at retroactively approving something that has already taken place. He said he has an issue with that, but understands there are often special circumstances with things that have happen years ago that need to be

brought into compliance. He requested to see, in the Staff Report, how the runoff issues will be mitigated. Mr. Pelham said they will be included in the construction permit plans. The professional engineers will have to ensure those issues will be mitigated.

Member Hill asked about conditions and plans for re-vegetation. Mr. Pelham said permanent stabilization is part of the code. Member Hill said she doesn't see stabilization requirements in Staff Report. Mr. Pelham said it's a standard code, and the applicant can address the question about the plans to re-vegetate.

Member Thomas asked about the original grading permit; he said he wants to know how far above the original permit was graded. Mr. Pelham said in a minor grading permit one acre of disturbance is the threshold. Mr. Pelham showed the grading on a map. It was going to be a building pad for a barn or structure. The actual area of disturbance is just shy of 2 acres, which is twice the amount of the original permit. There are two rock walls that were constructed that were not on the original permit. A stop work order was issued and will remain until the conclusions of our proceedings.

Member Stanley asked if the rock walls were helpful or detrimental to the runoff. Mr. Pelham said that is a matter for the engineers; he isn't qualified to answer that. Member Stanley asked about threshold of grading disturbance. Mr. Pelham said the threshold of grading it's predicated on the size of the parcel and the slope. Mr. Pelham said if the property is 6 acres or smaller, with 15% or less in slope, 1 acre of grading is the threshold for a minor permit. Grading of 1 acre or greater requires a major permit.

Member Stanley spoke about the pictures and letters of concern they received. There were a number of non-compliance events that occurred. He asked about follow-up if this case is approved. In the past, things were agreed upon, but not abided by. Mr. Pelham said there are several ways to check on this - when it comes to evaluation of actual construction permit, they will either meet the conditions or they won't be issued. There are inspectors who will check on compliance. If a neighboring property owner or anyone of the public thinks things are not being done in compliance, they can call code enforcement.

Mr. Lloyd answered Member Hill's question regarding stabilization requirement. Article 438.77 addresses stabilization of grading requirements for the grading permit. It provides options for the applicant in regards to vegetation or hardscape. Engineering will ensure financial assurances that it's completed to their satisfaction. Member Hill said standard conditions for permits are often overlooked. Unless it's a specific condition of the permit, it is often not met. She would request the condition be made as a special condition instead a just a group standard conditions.

Chair Toulouse referenced page 6 in the Staff Report, aerial photos of the property dated 2013. He asked if this is an accurate representative of the minor grading or more than it would have been with a minor grading permit. Mr. Pelham said in the photo from 2013, this could be considered grading of a minor permit.

Garrett Gordon, representative for the applicant, thanked Roger Pelham for working with them on this special use permit application. He said the contractor is ready to retire and the nephew is taking over. The plan is to cure this default of the original permit. We are in agreement with all conditions. He noted the stabilization in Exhibit A in page 1 in the conditions, item F, all plans submitted for grading and construction shall include detailed plans for permanent stabilization of all disturbed areas to control run-off and fugitive dust emissions. He said they agree to comply with that condition. For the engineering and capital project conditions, a bond is required to be posted to ensure the disturbance is re-vegetated. In item E, it states that any increase of run-off shall be mitigated. It has been pointed out in this meeting as well as the CAB.

Member Hill asked what they propose to do to permanently stabilize the site. Mr. Gordon said Ms. Williams wants to put a barn on that site. He said whatever the method will be to comply with the conditions, they will be sure to do so. He said he doesn't know exactly what they will do yet, but they will comply with code. They can't build anything until they correct the errors of the past. They will submit building plans for a full review.



Member Stanley asked about the bond. Mr. Gordon said on Exhibit A of the Staff Report, page 3, under the Washoe County engineering and capital projects section 2.D, \$2,000 per acre of disturbed area shall be provided to the Engineering Division prior to any grading. He said they envision financial assurances would be required to make sure we have complied with all of these requirements including re-inspection. There is a requirement for re-inspections for when the boulder is re-sized and the rock wall is re-located. The bond is recovered once there is a re-inspection and the grading plans and building permit is approved by staff. Once all requirements are met, the financial guarantee would be released.

Chair Toulouse asked Mr. Gordon if he has met with the adjacent neighbors about runoff issues. Mr. Gordon said his client has met with neighbors as well as the contractor. They disagree on the impact the walls have on the neighboring property. During the construction of the walls, a pipe was installed to mitigate the runoff; however, we now have a referee in the middle. There is a fundamental disagreement about the runoff, but the County is involved to make sure it's in compliance. Chair Toulouse re-stated his question, if he has met with the adjacent neighbors about the runoff issues. Mr. Gordon said he personally has not met with the neighbors, but Gail Willey and the applicant have met with the neighbor.

Chair Toulouse asked about the original request. Mr. Gordon said it was to create a pad in order to construct a barn. Mr. Gordon said the original request was for grading, there was no approval for any structure at that time. There was approval for a certain square footage to be graded which was exceeded.

Member Stanley asked Mr. Pelham if this case is denied or requires more conditions, what is plan B. Mr. Pelham said plan B would involve code enforcement with a series of prescribed steps. There are a series of notices and penalties. It's currently in a red tagged status. Mr. Edwards said there are multiple penalties and provisions regarding remediation according to article 438 for unauthorized grading. If this was not rectified, there are a number of steps for code enforcements on how they would proceed. There is also the possibility of an appeal process to the County Commission by the applicant or adjacent property owners, or judicial involvement. There are intermediary steps. We would try to fix it through this process or judicial involvement or possibly remediation through code enforcement. Member Stanley asked if this body can impose additional conditions. Mr. Edwards said yes, you are free to impose additional conditions; Ms. Hill has raised one possible condition. You can add on conditions, requirements to be permanently stabilized, including provisions of Washoe County 110.438.77, and those include specifically reference stabilization requirements.

Member Stanley asked if the bond time can be extended as a condition to make sure the runoff conditions work. Mr. Edwards said he would expect you could extend the bond time upon the conditions of the permit; the statutory framework for special use permits allow the imposition of conditions; they need to be reasonable related to the impacts of the property. If you made a finding that they were reasonably related to the impacts of this project, based on the evidence of what already occurred and the concerns of runoff, you could do that. Specify a timeframe. And if there is a complaint during that time, the property owner is given the chance to correct it. There is a process to gain voluntary remediation. If that failed or they ran out of money, that is what the bond is for. The County would hire someone else to remediate and get the work done that didn't get completed.

Mr. Lloyd said he wasn't aware of any specific statutory requirement regarding bond time. The bond is typically tied to the completion of the project. Specifically stabilization with re-vegetation, it may take several years for that re-vegetation to come to full maturity. It is taken into consideration by staff for compliance for that specific condition.

#### Public Comment:

Cilia Suhayda provided her written statement to the Members. In 2014-15, a grading permit was given to the owner of the property. It was red tagged because the grading, rock walls and vegetation removal was not on the grading permit. Due to that grading, rock walls, and vegetation removal there has been runoff from Ms. Williams' property east to neighboring property under her driveway. County staff has been out

several times to see the run-off but has not offered any solution. The ideal solution to this issue would be to return the property to original state prior to 2015, stopping the water run-off. She said she doesn't have confidence in the property owner or contractor. The contractor lied in 2015 when he assured that the grading work would not have an impact on their land and he knew what he was doing. The owner has become difficult to speak to and ensures she wants to make her land more beautiful. Prior to the grading, the land had a swale with vegetation that absorbed any and all water. Ms. Suhayda read from the staff report. As the neighbor east of the property, we do not want water runoff. Hold them to the requirements stated and any other code that applies. Make the County supervise the work to ensure the re-grading will stop any issues. Washoe County is obligated to protect others from intrusions from other property owners. If this continues, a sink hole will develop in our driveway, affecting access to our property because Ms. Williams wants a flat spot for a barn or greenhouse.

Member Hill asked Ms. Suhayda if she wants the Board to approve this. Ms. Suhayda said yes. It's physically impossible to return the property to original condition. So much dirt was moved that it destroyed the original contour. She doesn't believe it can't go back to what it was, so it really needs to be fixed. Member Hill said this will allow that to happen. Ms. Suhayda said we hope this plan will allow this to happen.

Member Stanley asked Ms. Suhayda if her property is currently experiencing runoff. She said not today because there is no water, but yes it does. She said she submitted photos of runoff.

There were no further requests for public comment.

Mr. Edwards looked up the extension for the grading bond. The code provision 110.438.39, bond would be in effect until the County Engineer made a determination that the work was completed and rectified. It could be left open to that, or you could say, at a minimum its left open for a year after the final inspection. Member Stanley asked if the code addresses the bond amount. Mr. Edwards read the provision for the bond amount - \$2,000 per acre of disturbed area or reclamation cost determined by the County Engineer, whichever is higher. Mr. Lloyd confirmed the County Engineer has determined that condition is set at \$2,000 per acre.

Chair Toulouse asked about condition 2(e), under Engineering and Capital projects, specific to any increase in drainage runoff volume shall be mitigated. He asked if that addresses what is approved today, or are we retroactively approving what has happened previously. Mr. Pelham said we are considering the pre-disturbance condition.

Member Stanley asked about extending the length of time for bond condition and increasing the bond amount of \$4,000 per acre. He asked if a condition can be designed to fit into the recommendation. Mr. Pelham said instead of \$2,000 per acre, there would have to be an estimate accepted by the County Engineer and perhaps the bond amount would be 120% of that estimate. That is commonly done with landscape bonds. Perhaps, the timeframe might be one year after competition or vegetation is 50% re-growth.

Member Hill said she still has concerns about stabilization. It could be hardscape. We don't have a stabilization plan. It's not a complete application. She stated she would like to see a re-vegetation plan in future applications. Mr. Lloyd recommended crafting a condition that requires the applicant to consult with the Washoe Storey Conservation District to create a stabilization/re-vegetation plan that is consistent with article 438 and any additional language that is suggested. Member Hill said she drives by it every week and will keep her eye on it.

Member Thomas said we are talking about correcting the problem, but really, we are approving something that has already happened. We are between the rock and hard spot. If we deny this, the people downstream are harmed by this. He said he isn't happy about this. The plan wasn't followed. The minor grading went beyond what was approved. We can't let it continue to harm those who don't have a stake in this. Chair Toulouse agreed. He said he doesn't like retroactive actions. He said the violation is so blatant

and obvious. He said he would like to penalize the contractor and the applicant. We are in a situation to approve or deny something that has already happened. This is a tough issue. He said he has a great deal of distaste for these things. He encouraged community development to deal with these situations before they get too far.

Mr. Pelham proposed additional condition of approval language: Financial security for grading shall be in the amount of 120% of the engineers estimate for the completion of reclamation and stabilization of the disturbed areas. Financial assurances shall be maintained by Washoe County until 50% of the disturbed area is covered by living groundcover. Stabilization method shall be developed in cooperation with the Washoe Storey Conservation District. Member Stanley said the clause of a minimum of \$4,000 in regards to the bond needs to be included. Member Stanley asked if there is a problem, and the bond has to be used to remediate the problem, does it have to go to the same contractor. Mr. Pelham said that is the decision by the County Engineer. Mr. Lloyd said that isn't in our purview to determine whether the existing contract would be selected to complete the work.

Member Hill said we need to approve the restoration of this property. She would like to make a motion to include Mr. Pelham's conditions. She said she agrees with increased security. It should be prohibited to give Mr. Willey the contract since he was in violation of the original contract. Member Thomas said we don't have that right to decide on the contractor. It's not the purview of the board. Chair Toulouse agreed. Mr. Edwards said he hasn't seen this scenario come up. He said he believes it's within the Board's discretion, in a particular case, if the findings cannot be made based on the history of a particular property. That has to be articulated for the findings to make a particular case. It's an issue that would be somewhat up in the air and maybe susceptible to a challenge. If you have evidence to a problem, your conditions can include prohibition in a case. Member Stanley said if the County Engineer makes that determination, can we point to the history to advise them and ask them to be cognizant. Mr. Edwards said yes, but might be difficult condition to craft. He said this record of discussion is an admonishment that you're contemplating. The question relates to if there is a problem down the road rather than a condition of the permit as of today. Ms. Hill wants to include a condition based on evidence to prohibit the contractor from continuing the work. Those are separate questions. The decision would be based on findings.

Chair Toulouse said he still has issues with going with that decision. It's like maintaining a black list of who isn't performing. The market will dictate that. He does sympathize with the adjacent property owners.

**MOTION: Ms. Hill 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 WSUP 17-0023 for Gail Willey Landscape, Inc. and Amour Property Management, LLC for the Williams Residence Grading, having made all five findings in accordance with the Washoe County Section 110.810.30 with special condition 1.K. that reads: Financial security for grading shall be in amount of 120% of the engineers estimate for reclamation and completion, not less than \$4,000, and stabilization of the disturbed area. The financial assurances shall be maintained by Washoe County until at least 50% of all disturbed areas shall be covered by living groundcover. Stabilization methods will be developed in cooperation with the Washoe Storey Soil Conservation District. Five findings include: Consistency, Improvements, Site Sustainability, Issuance Not Detrimental, and Effect on a Military Installation. Mr. Stanley amended the motion to add the language to include 'at least 50% of all disturbed area is covered by living groundcover but in no event will the grading bond be released prior to two years from the date of final inspection by County engineering staff.' Member Thomas seconded the amended motion. Motion carries unanimously.**

The board took a brief recess. Member Lawrence came back into the room.

- C. Special Use Permit Case Number WSUP17-0025 (Verizon Wireless Hidden Valley) –**  
For possible action, hearing, and discussion by the Washoe County Board of Adjustment to approve a special use permit for the construction of a new wireless cellular facility



consisting of a 70-foot high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) located at the Hidden Valley Golf Course maintenance yard toward the southern end of the golf course.

- Applicant: Verizon Wireless
- Property Owner: Hidden Valley Country Club
- Location: 3575 E. Hidden Valley Dr.
- APN: 051-400-30
- Parcel Size: 202.92 acres
- Master Plan: Suburban Rural (SR)
- Regulatory Zone: Parks and Recreation (PR)
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 324, Communication Facilities; and Article 810, Special Use Permits
  
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 27, T19N, R20E, MDM, Washoe County, NV
  
- Staff: Julee Olander, Planner  
Washoe County Community Services Department  
Planning and Building Division
  
- Phone: 775-328-3627
- E-mail: [jolander@washoecounty.us](mailto:jolander@washoecounty.us)

Julee Olander, Washoe County Planner, presented the Staff Report. Member Stanley made a disclosure – he is a former Verizon employee. Mr. Edwards stated he doesn't believe Mr. Stanley's pecuniary interest would disqualify him and he doesn't needs to recuse himself.

Mr. Buzz Lynn with Epic Wireless, representing Verizon Wireless, gave a presentation. He said they brought this project to the community as a small piece of network development. He said they will bring down the tower at Rattlesnake Mountain. This is one of three or four different sites to make it work. There is significant public benefit for businesses, residences, travelers and citizens in the area. There is a significant amount of data demanding the wireless services. Wi-fi capacity will be provided. It's imperative for someone to call first responders during an emergency. He said the CAB approved this project 4 to 1. All conditions of approval are being accepted. He said they have a radio engineer present to answer questions about radio frequency.

Member Thomas asked about the different tower models. Mr. Lynn said the community helps decided the tower model based on esthetics. He said the cell tower at Arrowcreek, the community decided to choose a water tower instead of the monopine. Mr. Lynn said no such requests have been made for this case. Member Stanley asked about the concerns about health impact from radio frequencies. Mr. Bill Hammet with Hammet & Edison is present to answer any question. Mr. Lloyd said federal law precludes local jurisdictions from determining compliance with findings based on the potential health impacts of radio frequency. Mr. Hammet introduced himself. He said his business is to measurement radio exposure levels. He said in this case, this complies with the federal standard, and it's below the standard. What we calculate is conservative and it's below those levels. It will comply with federal standard once constructed.

No requests for public comment.

No Member discussion.

**MOTION: Member Lawrence 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 amended conditions Special use Permit Case Number WSUP17-**



0025 for Verizon Wireless, having made all five findings in accordance with Washoe County Code Section 110.810.30. Those findings include: Consistency, Improvements, Site Sustainability, Issuance Not Detrimental, and Effect on a Military Installation. Member Stanley seconded the motion. The motion carries unanimously.

**9. Chair and Board Items**

\*A. Future Agenda Items – Chair Toulouse stated he would like discuss retroactive approvals and if there are any penalties in place, and to make recommendations if none exist. July 6<sup>th</sup> is the BOA second special meeting. He said he and Member Thomas cannot make that meeting. He mentioned the possibility of moving that date. Member Lawrence said he would like to move it earlier to May, but will make every attempt to make the July meeting. Chair Toulouse said the next meeting is March. There is only two items. He asked if we could move those items to the April meeting. Mr. Lloyd said he needs to get the applicants approval.

\*B. Requests for Information from Staff

**10. Director’s and Legal Counsel’s Items**

\*A. Report on Previous Board of Adjustment Items – Mr. Lloyd had no updates on previous BOA items. He said the code amendment for outdoor entertainment was approved by the Planning Commission and will go before County Commission for approval.

\*B. Legal Information and Updates – no legal updates.

**11. \*General Public Comment**

There was no request for public comment.

**12. Adjournment – meeting adjourned at 3:26 p.m.**

Respectfully submitted,  
*Misty Moga, Independent Contractor*

Approved by Board in session on April 5, 2018



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Trevor Lloyd  
Secretary to the Board of Adjustment

