

WSUP21-0028 (Dethmers Major Grading)



# Washoe County Board of Adjustment

March 3, 2022

# WSUP21-0028

## (Dethmers Major Grading)





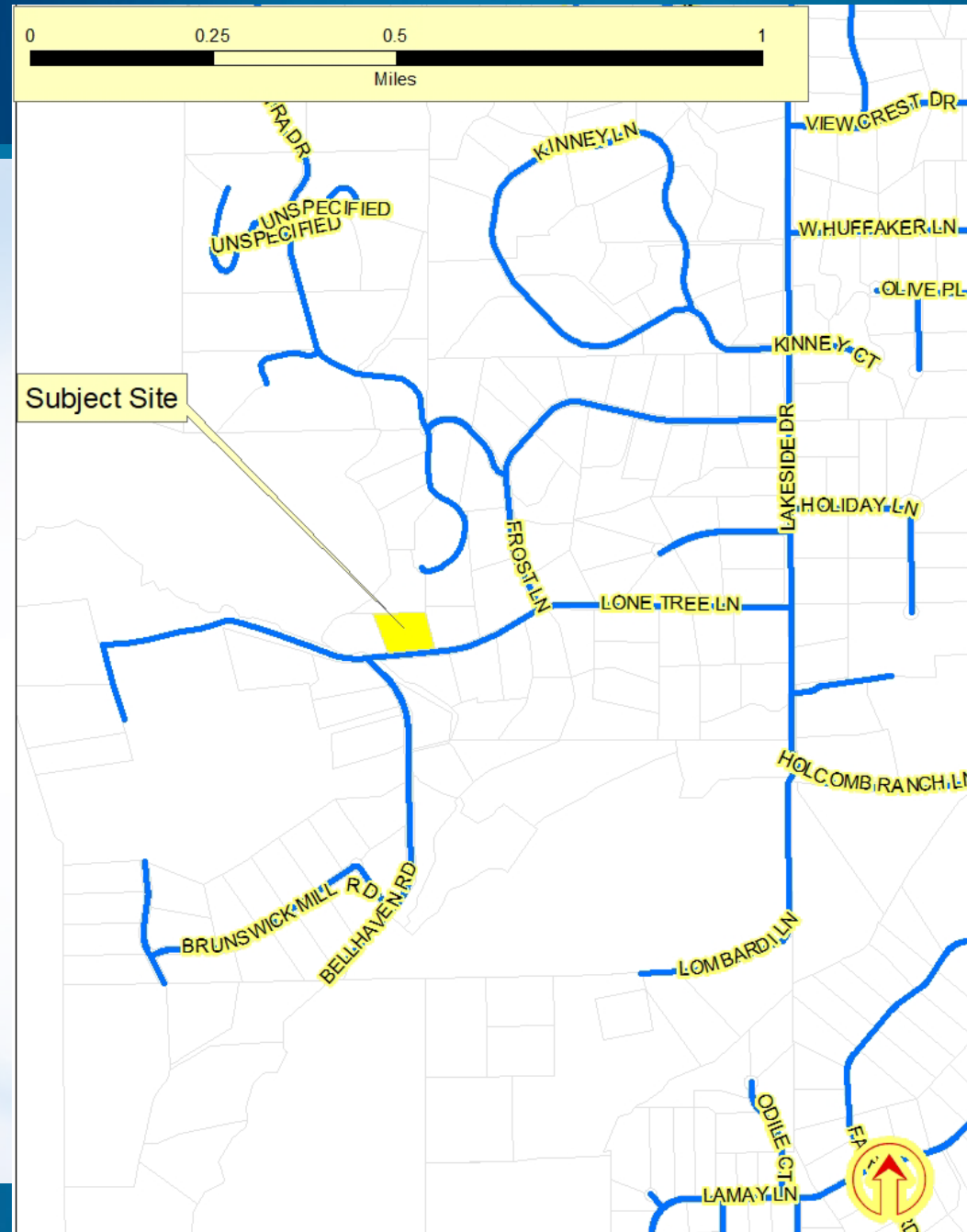
# Request

For hearing, discussion, and possible action to approve a special use permit for Major Grading (WCC110.438.35) to allow approximately 2.1 acres of land disturbance and 1,800 cubic yards of excavation of earthen material, to rectify illegal grading done within the past year, without obtaining appropriate grading and building permits.





# Vicinity Map



# Overhead Photo







# Site Photos



Subject site looking north from Lone Tree Lane



Subject site looking west along Lone Tree Lane



# Site Photos



Subject site looking north from Lone Tree Lane



Subject site looking north from Lone Tree Lane





## Project Evaluation

- Grading was substantially done without approval of appropriate permits
- Applicant has been contacted by Washoe County Code Enforcement and is seeking approval to rectify the identified violations of the Development Code
- Seeking to grade 2.1 acres of a 2.29-acre parcel of land
- **Difficulties:**
  - purpose of that code is, “set standards that... minimize disruption of the natural landscape”
  - substantial disruption of the natural landscape of the subject site has already taken place
  - purpose of grading, according to the applicant: clearing overgrowth, grading for retaining walls, horse pasture
  - no primary use is proposed on the site
  - retaining walls and substantial grading are required for the proposed new driveway
  - grading has been done on neighboring parcel



## Project Evaluation

- **To legalize grading on the neighboring property, a condition has been included with three options:**
  - 1) The applicant shall obtain and record an access and grading easement on all disturbed areas on all parcels of land that have been disturbed by grading, or are proposed to be disturbed by grading, to the benefit of the subject site.
  - 2) The applicant shall obtain and record a boundary line adjustment such that all graded slopes are on one parcel of land only, and shall obtain and record an access easement, to the benefit of the subject site, along the driveway that was constructed without permits.
  - 3) The applicant shall obtain the necessary grading permit and return the area of the driveway that was constructed without permits, to its original topographic contour and shall restore the vegetation in that area to its pre-disturbance condition.



# Project Evaluation

- **Detached Accessory Structure(s) have been constructed without permits.**
- **Condition of approval is included:**
  - The applicant shall obtain an appropriate building permit for one detached accessory structure on the subject site. Prior to approval the applicant shall provide a conformed copy of a recorded deed restriction for that parcel of land in accordance with WCC110.306.15(b).





# Public Comment

Chair Hill, Members of the Washoe County Board of Adjustment and Commissioner Lucey:

We are writing in support of the above referenced special use permit as proposed by the Dethmers, to include construction of the new driveway. We reside on Lone Tree Lane to the southeast of the subject property.

After reviewing the BOA Staff Report, we believe the improvements planned by the Dethmers will help achieve the highest and best use of this vacant lot contributing to increased value of this and neighboring properties. Historically, our neighborhood was part of an area known as the "Rancheros", an enclave of gentleman ranches and equestrian estates. Equestrian properties with pastureland are rapidly disappearing in Reno and those that remain are highly desirable. Planting pasture and building equestrian facilities will help preserve our western heritage, increase the value of the neighborhood, and maintain the rural lifestyle many of us sought when buying our homes.

Thank you for your interest and attention.

David and Pamela Castagnola



# Public Comment

Brian D. Cason

The Dethmers are tremendously humble, kind, and respectful neighbors. A couple years ago they purchased the house above the adjoining lot and were excited to make improvements. They looked forward to providing grazing land for their beloved horses, while striving to maintain and preserve the character within the area. Their intent was and still is to plant a multitude of trees, shrubs and grass that will benefit a location that had been overgrown and contributed to a potential wildfire risk. As a neighbor of the adjoining lot, I am confident the improvements will bring value and beauty to the area.

The grading of the parcel has provided access to the irrigation ditches running through the property for maintenance, which has helped limit water loss caused by overgrown vegetation. This has continually caused flooding to the areas below and wasted precious water resources drawn from the Truckee River. The Dethmers reduced dead vegetation and made improvements, at their own expense and with permission of the ditch authorities, to the failing irrigation pipes. Repairs have prevented water loss and additional evaporation from affecting downstream users. Drainage into the open unnamed creek has also been improved to keep runoff contained in the central area of the creek bed and maximize water flow within the drainage area. These improvements are beneficial to create a cleaner water resource that provides improved habitat for waterfowl and other wildlife.

With the decline of moisture due to changes in weather patterns, wildfires have become a heightened concern in our area. Creating defensible space and adding living healthy vegetation to the land is one of the best methods of reducing potential fire threats. Prior to vegetation removal of the dead and dying undergrowth the lot posed a high fire risk to all neighbors.

Grading of the lot has decreased irrigation water loss, reduced flooding of adjacent properties and greatly reduced the risk of wildfire. In addition, the Dethmers plans for use of the parcel will improve the aesthetic look of the area while benefiting wildlife and providing the beauty of horses roaming open fields. They plan to bring back the natural beauty by planting trees, grass and vegetation native to the area. While the Dethmers excitement to improve the land and provide aesthetic beauty to the community compelled them to step ahead of the process, their ultimate goal and intent was, and always has been to be an asset to a community where they were born and raised, and they call home.

# Public Comment

One condition of approval is requested to be added, if approval is granted.

February 25, 2022

Washoe County Planning  
Roger Pelham, Senior Planner

Special Use Permit Case Number: WSUP21-0028 (Dethmers Major Grading)

The following comments were prepared by Frost Ranch Association (FRA) after review of documents for WSUP21-0028, Exhibits A & B. The Frost Ranch Association is a nonprofit corporation which is composed of and represents the 27 property owners and irrigation water users located downstream from Parcel 041-120 11. The association members receive water from 3 gates on the Steamboat ditch and 1 of which passes through the subject parcel. We have reviewed the Board of Adjustments Staff report for parcel 041-120-11 and please to provide the following comments.

1. Page 18, J. Operational Conditions of Approval. We request that the conditions also include:  
“ iv. Maintain the existing irrigation gates and lateral serving Frost Ranch Association downstream water users within the recorded irrigation easement; and allow access to water users to maintain the ditch. Do not create, in any manner, any diversions from the lateral to Parcels 041-120-11 and 041-120-12 without approval of the downstream water users.  
Do not relocate any portion of the existing lateral without approval of the downstream water users.  
If the driveway from Lone Tree Lane to subject parcel remains and is permitted with a culvert in the irrigation lateral, the owners of Parcel 041-120-11 shall maintain the existing lateral for a distance at 6 feet upstream of the culvert inlet and 6 feet downstream from the culvert outlet, and the structural and hydraulic integrity of the culvert pipe.
2. Page 23, FRA concurs with the comments prepared by Vahid Behmaram.
3. Page 25, These comments also provide a response to the requirements requested by Robert Wimer, PE (Washoe County Community Services Department) shown on WSUP21-0028, and on page 19, Item 2.d.

Respectfully submitted on behalf of Frost Ranch Association members,

Colleen Barrett  
President  
Frost Ranch Association

Mary Allen  
Secretary  
Frost Ranch Association

Paula Gonsalves  
Treasurer  
Frost Ranch Association

Marvin Davis, P.E.  
Property owner and water user

Louis Test, ESQ  
Property owner and water user





- Options:**
1. Approve as requested
  2. Approve without a second driveway
  3. Deny

Page 11 of 15 in Staff Report:

Staff is reluctant to provide a recommendation of **approval** for this special use permit application as the conditions required to facilitate conformance with required Code provisions are particularly complex due to the series of challenges presented by the previous grading and construction that has been done without appropriate permits.

Staff is also reluctant to provide a recommendation of **denial** for the reason that, **IF** the applicant provides plans that comply with all relevant code provisions and strictly complies with all conditions of approval included with this report, and the subsequent work is done in strict accordance with those plans, it is *possible* that compliance with the Code may be able to be achieved.



## Findings of Fact

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

*Staff Comment: There are no action programs or policies of the Master Plan or the Southwest Truckee Meadows Area Plan that are particularly relevant to the proposed special use permit for Major Grading.*



## Findings of Fact

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

*Staff Comment: Subject to compliance with the attached conditions of approval it is possible that the applicant may be able to provide adequate roadway improvements, in this case driveway improvements, and to restore appropriate drainage improvements. Utilities, sanitation, water supply and other necessary facilities are available in the surrounding, developed area.*





## Findings of Fact

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

*Staff Comment: The subject site was substantially covered with native vegetation prior to the grading that was done without appropriate permits. The BOA may consider whether to not the site is suitable for the “clearing overgrown drainage channel, re-seeding grass blend at pasture area and grading for retaining walls, new driveway and fenced horse arena” as proposed by the applicant.*



## Findings of Fact

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

*Staff Comment: The amount of grading that has been done without obtaining appropriate permits has the potential to 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 by means of degradation of the drainage-way and the related possible dust emission and increased potential for erosion.*

*Approval of the request may provide for appropriate stabilization along with further development of the site, denial would require the applicant to remediate the unpermitted grading.*



## Findings of Fact

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

*Staff Comment: There is no military installation within the distance required to be noticed for this permit, therefore there can be no detrimental effect.*





## Recommendation

Special Use Permit Case Number WSUP21-0028 is being recommended for **denial**, primarily based upon the lack of assurance that a finding of “issuance not detrimental” can be made. If the BOA is able to make the finding that issuance is not detrimental, two different motions for approval are included with this report.

Staff offers three motions for the Board’s consideration Page 14 of the staff report.



## Possible Motions for Approval

**Approval (without new driveway):** I move 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 WSUP21-0028 for Jordan and Chelsea Dethmers, with the conditions included as Exhibit A to this matter **including condition #1d**, which prohibits construction of a new driveway, **and including the condition requested by the Frost Ranch Association** having made all five findings in accordance with Washoe County Code Section 110.810.30:

**Approval (with new driveway):** I move 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 WSUP21-0028 for Jordan and Chelsea Dethmers, with the conditions included as Exhibit A to this matter and **deleting condition #1d**, which results in allowing a new driveway to be constructed, **and including the condition requested by the Frost Ranch Association** having made all five findings in accordance with Washoe County Code Section 110.810.30:



## Possible Motion for Denial

**Denial:** I move 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 Special Use Permit Case Number WSUP21-0028 for Jordan and Chelsea Dethmers, being unable to make all five findings in accordance with Washoe County Code Section 110.810.30



# Questions?

