



# WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

## Board of Adjustment Members

Kristina Hill, Chair

Clay Thomas, Vice Chair

Lee Lawrence

Rob Pierce

Brad Stanley

Trevor Lloyd, Secretary

Thursday, February 4, 2021

1:30 p.m.

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

**No members of the public will be allowed in the Commission Chambers due to concerns for public safety** resulting from the COVID-19 emergency and pursuant to the Governor of Nevada's Declaration of Emergency Directive 006 Section 1 which suspends the requirement in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate. This meeting will be held by teleconference only.

The meeting will be televised live and replayed on Washoe Channel at: <https://www.washoecounty.us/mgrsoff/Communications/wctv-live.php> also on YouTube at: <https://www.youtube.com/user/WashoeCountyTV>

The Washoe County Board of Adjustment met in regular session on Thursday, February 4, 2021, via Zoom.

## 1. Determination of Quorum [Non-action item]

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

Members Present:

Kristina Hill, Chair

Lee Lawrence

Rob Pierce

Clay Thomas

Members Absent:

Brad Stanley

Staff Present:

Roger Pelham, Senior Planner, Planning Division

Dan Cahalane, Planner, Planning Division

Chris Bronczyk, Planner, Planning Division

Trevor Lloyd, Planning Manager, Planning Division

Michael Large, Deputy District Attorney, District Attorney's Office

Donna Fagan, Recording Secretary, Planning Division

## 2. Pledge of Allegiance [Non-action item]

Chari Hill led the pledge of allegiance.

## 3. Ethics Law Announcement [Non-action item]

Trevor Lloyd recited the Ethics Law standards.

## 4. Appeal Procedure [Non-action item]

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

## **5. Public Comment [Non-action item]**

Comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the agenda. However, action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item. Comments are to be made to the Board of Adjustment as a whole.

There was no request for public comment

## **6. Approval of the Agenda [For possible action]**

In accordance with the Open Meeting Law, Member Thomas moved to approve the agenda of February 4, 2021. Member Lawrence seconded the motion which carried unanimously.

## **7. Approval of the December 3, 2020 Draft Minutes [For possible action]**

Chair Hill had a correction – on page 17, it should be North Lake Tahoe Fire Protection District. Member Thomas moved to approve the minutes of December 3, 2020 with correction. Member Hill seconded the motion to approve the minutes with correction which carried unanimously. Member Lawrence abstained as he was not in attendance at that meeting.

## **8. Public Hearing Items [For possible action]**

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. Mommies & Daddies Daycare Appeal [For possible action]** – For possible action, hearing, and discussion on an appeal of the Community Services Department's requirement to impose required roadway improvements to Deli Street per Section 110.436.20 and 110.436.60 of the Washoe County Code.

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| <ul style="list-style-type: none"><li>• Appellant/Owner:</li><li>• Location:</li><li>• APN:</li><li>• Parcel Size:</li><li>• Master Plan:</li><li>• Regulatory Zone:</li><li>• Area Plan:</li><li>• Citizen Advisory Board:</li><li>• Development Code:</li><li>• Commission District:</li><li>• Staff:</li><li>• Phone:</li><li>• Email:</li></ul> | <p>Nikole Jacob-Jones,<br/>Mommies and Daddies PreSchool, LLC<br/>100 Deli Street<br/>080-191-06<br/>.045 acres<br/>Commercial (C)<br/>General Commercial (GC)<br/>North Valleys<br/>North Valleys<br/>Authorized in Article 302, Article 304, Article 810<br/>5 – Commissioner Herman<br/>Trevor Lloyd, Planning Manager<br/>Washoe County Community Services Department<br/>Planning and Building Division<br/>775.328.3617<br/><a href="mailto:tllloyd@washoecounty.us">tllloyd@washoecounty.us</a></p> |
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Trevor Lloyd, Planning Manager, reviewed his staff report dated January 8, 2021.

Member Lawrence asked the length and width of Deli Street. Mr. Lloyd noted he didn't have exact measurements but estimated 300 feet long and 25-foot, standard width.

Member Pierce asked about safety issues if they wait 3 years. Mr. Lloyd said that is one of the concerns and engineering is reluctant to allow access off Deli Street since it's unimproved. Whenever there is an access road, there are safety concerns. Mr. Dwayne Smith said the issues we focused

on, when working with this applicant, was to find the right resolution and it's all stemming on the focus of safety and to make sure it meets the minimum standards. It is no different than what we look at with any commercial development. Through this process, we identified different ways to access. He said they are sensitive when considering safety and accessibility. The Board of County Commissioners would have to weigh the risk. They would require the preschool identify Washoe County on their insurance to alleviate liability during that timeframe. Mr. Smith will continue to work with the preschool, as he recognizes the need for the area.

Member Pierce stated he drove the road and didn't see any significant potholes but there was snow on the ground.

Member Thomas asked about the 3-year timeframe. Mr. Lloyd noted it was a negotiated timeframe the applicant requested to raise funds to pave Deli Street.

Member Lawrence asked about the agreement with Mr. Peak, the neighbor, and if it is contractual. He asked if Mr. Peak can deny this at any time. Mr. Lloyd said there would be a temporary access easement through Mr. Peak's property. That would allow him access not to exceed 3 years.

Nicole Jacobs, applicant, was available to answer questions. She said she spoke with Gregory Peak and came up with a 3-year timeframe so she can raise those funds to pave to standards. She said it's hard to accomplish it prior to opening. She said her goal is to pave it as soon as possible. She said she will pave it sooner than later, but the 3 years is an option to open and service the community while raising the funds.

With no requests for public comment, Chair Hill closed the public comment period.

Member Lawrence said a 3-year timeframe is intriguing. He asked if she received any estimates of paving. Ms. Jacobs said she received several quotes. The first quote was just under \$42,000; however, after understanding what it would need to bring it up to County standards, it will be more like \$80,000. She said she spent \$13,000 on the engineering for the road to show they are dedicated. It's quite a bit of money for us.

Member Pierce asked if this gets approved and there are potholes, are is the applicant willing to get those fixed before a vehicle gets damaged. Ms. Jacobs said the automotive business was doing repairs and she said they were willing to do repairs. Member Pierce asked if the other businesses would split the cost with them. She said Mr. Peak agreed to pay \$10,000 reimbursement. Mike's Automotive wasn't as willing but will do \$3,000. She said she appreciates \$13,000 to help in the cost. She said things could change in 3 years with code standards. She said Mr. Peak said he might be willing to help a little more.

Member Pierce said he doesn't have any issue and it's a viable option. Chair Hill agreed and said it's a needed service, and it's nice to allow this type of compromise. She said she supports it. Member Lawrence said he lives on a dirt road and it's a challenge with potholes. He said he doesn't know how many vehicle trips there will be. The road will get worse with vehicle traffic. He suggested road base type 2 is what they should get to patch the potholes. He is concerned with daycare and emergency services and hopes the road isn't a challenge. He said he is impressed by the County with its foresight and flexibility for someone in their endeavor. It's not often the County has demonstrated its willingness to work. He said he hopes there won't be difficulties with this approval.

Member Thomas agreed. He asked if there was a contract between Mr. Peak and applicant and should it be included in the recommendation so there is a guarantee and won't be pulled after its approved. Member Lawrence agreed. Some sort of contractual agreement to guarantee.

DDA Large said a condition of approval on entry of Ms. Jacobs and a third party to allow access to the easement with written agreement for 3 years is appropriate. Chair Hill asked about maintenance. Mr. Large said with the 3<sup>rd</sup> party agreement, there is only so much the County will want to get involved with, in that aspect. Having an access easement is good. He said if there is a requirement Ms. Jacobs is responsible for repairs during the 3-year interim, and the Board can put that condition, as well. Mr. Lloyd said that can be added that the applicant would be responsible for

maintenance of roadway; we need to be cautious of the expectation. He said what does maintenance mean. Member Lawrence said maintenance is a quasi term; to what degree of maintenance. If you see a hole, you fill it up. The County needs to be forgiving in this regard. If she is reasonably taking care of it, and there is a complaint, they can get it squared away. He said he heard her enthusiasm for it. We can add it, if necessary.

Mr. Large noted Mr. Smith's referenced to condition number 4 covers maintenance of temporary easement. Mr. Large said engineering is satisfied with condition 4. That group understands those conditions set forth.

Member Pierce moved move 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 with conditions the appeal of staff's decision for Nikole Jacob-Jones, with the following conditions at a minimum. Member Lawrence seconded the motion which carried unanimously.

1. Enter into an agreement related to the paving of Deli Street between owner/applicant and Washoe County to include: target deadlines, rider insurance, and financial assurances for the project value AND subject to receiving BCC approval for this agreement.
2. Provide a 3-year timeframe for completions for the paving of Deli Street.
3. Provide approved construction plans and cost estimate (including Exhibit A) for the paving of Deli Street to the BCC.
4. Provide temporary access easement on parcel 080-191-20.

Discussion: Member Lawrence asked about contractual or written agreement with Mr. Peak and Ms. Jacob for easement access guarantee. Mr. Smith said condition 4 is to provide 3-year timeframe in certainty; applicant has to acquire easement from Mr. Peak, and it has to be recorded – other concerns can be worked into that to ensure safe access and to give her time to raise capital. It is covered in that condition 4 to achieve that goal. Member Thomas said although condition 4 said temporary easement to parcel, what is before us is for the applicant asking for approval, and we cannot hold Mr. Peak accountable unless it said the agreement is reached. We are overstepping bounds. It would be a requirement before we move forward with this. Chair Hill said they will need approval from BCC. She said our review today is to support this compromise to allow daycare to operate until they can raise the funds to pave Deli Street. She said she is confident engineering and BCC will see it's carried out for the public health and safety. We don't need to be concerned with the details of the easement.

**B. Special Use Permit Case Number WSUP20-0025 (Ormat Temp Aggregate) [For possible action]** – For possible action, hearing, and discussion to approve a special use permit to allow: 1) a 9-acre restricted market temporary aggregate facility to serve as an aggregate facility for WSUP20-0013, and 2) a request to vary paved parking and maneuvering standards and all landscaping standards.

• Applicant:	ORNI 36, LLC
• Property Owner:	Kosmos Company
• Location:	Approximately 6.4 miles southwest of the intersection of Highway 447 and Rodeo Creek Rd.
• APN:	071-070-09
• Parcel Size:	155.9 acres
• Master Plan:	Rural
• Regulatory Zone:	General Rural
• Area Plan:	High Desert

- Citizen Advisory Board: Gerlach/Empire
- Development Code: Authorized in Article 332, 810
- Commission District: 5 – Commissioner Herman
- Staff: Dan Cahalane, Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775.328.3628
- Email: [dcahalane@washoecounty.us](mailto:dcahalane@washoecounty.us)

Dan Cahalane, planner, reviewed his staff report dated January 15, 2021.

Chair Hill asked if Article 438 isn't supported. She said she doesn't see that in the conditions. Mr. Cahalane said staff isn't inclined to condition code. He said 3:1 slopes are required; it's a master plan level decision. Chair Hill clarified staff is ok with approval of 3:1 slopes.

Eric Hasty, Wood Rodgers, provided a PowerPoint presentation.

Member Thomas inquired how long it will be a temporary aggregate pit. Mr. Hasty said based on how ever long it takes to build the powerplant. Mr. Cahalane said they are looking at making it effective for 1 year, dependent on the completion of WSUP20-0013. Chair Hill asked when the plant will be up and running. Mr. Cahalane said the WSUP20-0013 has been continued to the February Regional Planning Board in order to make a determination on plan conformance at the regional level. Then it will go to regional governing board to approve the amendment of regional energy transmission maps. The applicant wants to break ground as soon as possible.

Stacie Huggins, Wood Rogers, said there are a number of well pads associated with this larger geothermal plant that might take years to be completed. Construction would start in 2022 and operations will be dependent on Ormat. That ag pit will be functional during building of the well pads and roads. When they are done with those, they will remediate the ag pit. Chair Hill asked will they remediate the ag pit if it's not approved by regional planning commission. Ms. Huggins said Ormat owns an existing facility out there so materials from this ag pit will be used to improve those roads. She said part of this approval, regardless of the other facility, is they will be able to remediate the ag pit. They will use materials either way and it will be remediated.

Member Thomas asked how long 'temporary' is, there is no end date. Mr. Cahalane clarified and read condition 1(j)(iv) states, "this special use permit shall remain in effect until completion of all grading associated with WSUP20-0013 and the site is reclaimed or unless it is revoked as long as the business is in operation and maintains a valid business license." He said there is a timeline for that SUP. He added as long as the ag pit business license is valid which will be obtained with the new uses.

Scott Nichols, Ormat representative, said the temporary aggregate pit is temporary for construction of the geothermal facility. He said we expect 18-24 months to complete the construction. He said in terms of power delivery, we are looking at 24 months after they begin construction.

With no requests for public comment, Chair Hill closed the public comment period.

Member Pierce 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 WSUP20-0025 for Orni 36 LLC , having made all five findings in accordance with Washoe County Code Section 110.810.30. 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 Name of 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 restricted market temporary aggregate facility 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;
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.

**C. Special Use Permit Case Number WSUP20-0023 (Burns Family Grading) [For possible action]** – For possible action, hearing, and discussion to approve a special use permit to allow major grading, including previous unpermitted grading and earthwork totaling approximately 1,500 cubic yards of excavation, and disturbance of a total area of approximately 187,308 square feet (approximately 4.3 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/Property Owner:	Burns Living Trust
• Location:	3160 Clark Drive, approximately 750 feet southeast of its intersection with Magpie Way, in Washoe Valley
• APN:	050-550-10
• Parcel Size:	± 5.90 Acres
• Master Plan:	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 438, Grading
• Commission District:	2 – Commissioner Lucey
• Staff:	Roger Pelham, Senior Planner Washoe County Community Services Department Planning and Building Division
• Phone:	775.328.3622
• Email:	<a href="mailto:rpelham@washoecounty.us">rpelham@washoecounty.us</a>

Roger Pelham, Senior Planner, reviewed his staff reported dated January 24, 2021.

Member Thomas asked when the grading occurred. He asked how it came to staff's attention. Mr. Pelham noted Washoe County received a complaint which brought it to their attention.

Chair Hill asked if the complaint was due to dust. Mr. Pelham noted he didn't know the reason for the complaint but there are several reasons including dust, to file a complaint.

Derek Wilson, the applicant representative, provided an overview. He noted the owner is selling the property and a realtor advise them to strip the property and they did, not realize they needed an SUP. The grading was done in early summer. It has been there long enough and needs to be fixed. The site has never been developed but will most likely to be developed. It's zoned residential. He spoke about a remnant stream of Jumbo Creek. It's not an active water course now. It wasn't heavily altered. The site maintains natural topography. Mr. Wilson said the grading amounted to be a few inches across the property that will be put back. He said this was presented to South Truckee

Meadows/Washoe Valley CAB. The CAB members asked questions about how to move this forward. He said we would like this to be approved to get this fixed.

Member Lawrence asked about irrigation and dust palliative. Mr. Pelham said yes, they are required to put all the spoils back on and keep it watered down.

Chair Hill said we don't like reviewing projects after the fact, but we would like to get this remediated.

With no requests for public comment, Chair Hill closed the public comment period.

Member Lawrence said he is glad the applicant is supportive. He said he is satisfied with this and hope it gets back to normal.

Member Pierce said he supports it.

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 approve with conditions Special Use Permit Case Number WSUP20-0023 for Burns Family Trust, having made all five findings in accordance with Washoe County Code Section 110.810.30 30 and one finding in accordance with the South Valleys Area Plan. Member Pierce 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 South Valleys 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 previously unpermitted Major Grading, 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;
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.
6. SV2.16. The community character as described in the Character Statement can be adequately conserved through mitigation of any identified potential negative impacts.

**D. Special Use Permit Case Number WSUP20-0027 (Copart Sublot) [For possible action] –**

For possible action, hearing, and discussion to approve a special use permit for Inoperable Vehicle Storage Use Type and to approve Major Grading in the amount of approximately 6,465 cubic yards and a disturbance of approximately 9.3 acres (approximately 405,336 square feet) and to eliminate all required landscaping in accordance with Article 412, Landscaping, and to eliminate all required pavement in accordance with Article 410, Parking and Loading on two parcels of land.

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| • Applicant:      | Copart of Arizona, Inc   |
| • Property Owner: | White Lake Properties, LLC   |
| • Location:       | 19905 Reno Park Boulevard, approximately ½ mile southwest of its intersection with North Virginia Street |
| • APN:            | 081-131-35 and 081-131-34  |
| • Parcel Size:    | ± 10.268 and ± .057 acres  |
| • Master Plan:    | Industrial   |

- Regulatory Zone: Industrial
- Area Plan: Cold Springs
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 302, Allowed Uses and Article 438 Grading
- Commission District: 5 – Commissioner Herman
- Staff: Roger Pelham, Senior Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775.328.3622
- Email: [rpelham@washoecounty.us](mailto:rpelham@washoecounty.us)

Roger Pelham, Senior Planner, reviewed his staff report dated January 11, 2021.

Chair Hill asked if paving is required. Mr. Pelham stated paving is required for driveway but not the storage areas. The area where the pallets are stored don't need to be paved, but driveways where forklift and heavy equipment will travel will be paved.

Dave Snelgrove, the applicant representative with CFA, introduced members from Copart, Matt Strother and Jeremy Melteba. Mr. Snelgrove provided a PowerPoint presentation.

Member Thomas asked about operating hours, 8 a.m.-5 p.m. M-F. Mr. Snelgrove confirmed. In response to Member Thomas' question, Mr. Snelgrove stated nobody will be based out of this site; they will be based out of the site located on North Virginia and Stead Blvd. Member Thomas inquired about facility specifications – fuel storage on site. He asked how the heavy equipment would be refueled. Matt Strother said the loader won't be running a lot. He said it will be refueled from a traditional wet hose. Member Thomas said within the trip calculations in and out of property, it shows peak hours 7-9 a.m. and 4-6 p.m. He asked if you are only operating 8 a.m.-5 p.m., why don't the trip calculations correlate. Mr. Strother said trip calculations was used from other locations. It's not 100% reflective of the operating hours. Mr. Snelgrove said the longer hours were submitted to Mr. Solaegui for the traffic study. Member Thomas said 518 trips is what is in the document. He asked how they came up with those numbers. Mr. Strother said that number came from a busier site and should be less than those numbers. Mr. Snelgrove said they have much larger sites and not a lot of auxiliary sites. Those numbers are much higher than anticipated. Member Thomas asked how many vehicles will be in storage. Jeremy Melteba said they look at 150 cars per acre. He noted the traffic study was from the main yards with offices on-site. He said you could cut it in 1/3 for this site. He said the public isn't welcome in this overflow lot. Member Thomas asked how the cars will be hauled off the lot. Mr. Melteba said a flatbed truck would come and they will loaded by a caterpillar.

Member Lawrence asked about security. He asked if it will be 24 hours or evening. He asked how many people will be parking in the area for security. Mr. Strother said there won't be security on-site, but cameras with 24-hour monitor will be in-use. No physical presence.

Member Thomas asked how many of the other 12 sites are paved. Mr. Strother said all the other sites are rock, not paved. He said that is common.

Member Thomas asked how they will ensure there isn't any leakage. Mr. Strother said there will be an operator. Mr. Strother said someone will be there to receive the incoming vehicles. They will come from the main site where they have been picked up or dropped off. Mr. Snelgrove said there is a tight protocol regarding leaking. They ensure the car isn't leaking. If it's brought over here, there is no more leaking.

With no requests for public comment, Chair Hill closed the public comment period.

Member Lawrence said he is generally in favor. He said he is concerned with ground water contamination but understands its regulated and he trusts that. He said he is ok with the County's

proposal with the paving and trees. It's the best approach for the development of the property and community.

Chair Hill said it's a needed service. There needs to be storage somewhere, might as well be a safe location off the roadway.

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 conditions, as included at Exhibit A, Special Use Permit Case Number WSUP20-0027 for Copart of Arizona, having made all five findings in accordance with Washoe County Code Section 110.810.30

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

Discussion: The board members discussed the parking condition request. Member Pierce said he doesn't have a problem as long as condition 1.0 is included. Member Thomas said it doesn't account for flatbed trucks. He said if it's 150 cars per acre, that's 1,500 on the site. There will be more traffic onsite. He said to allow the larger vehicles to maneuver around, we might need more than four parking spots.

Member Lawrence said handicap is usually 1.5 spaces. He asked if staff would be willing to allow an arbitrary number like 10 or eight. Member Pelham said it's at the discretion of the Board. 10 is in the middle. Mr. Pelham said he doesn't object nor is he in favor. Chair Hill asked if the large vehicles can park in the driveways. Mr. Pelham said radius will allow the trucks to move through the site. Chair Hill said the trucks won't be stored on-site; they will come and go from the main site. Mr. Pelham said he isn't recommending parking for the trucks, just for employees. Member Thomas said there was discussion of this site becoming a salvage operation or car dealership which will require more parking on-site. There are circumstances for the need for more than four parking spots. Chair Hill asked if that will be another SUP. Member Thomas said it's a DMV process. There would be more individuals coming to the site depending on how they want to grow their operation. He said he is anticipating that.

Mr. Snelgrove said if there is a stack up of flatbed trucks, there is a large area at the entry. He said if we come back for a building permit and intensify the site, the parking would have to meet the requirements at that time, under conditions.

Member Lawrence asked Mr. Lloyd about future expansion and parking requirements. Mr. Lloyd said at time of approval, they are required to meet minimum standards unless varied by this Board, but if they come back to request to expand operations, they need to meet the standards.

Member Lawrence said it would be 18 parking spaces. Mr. Pelham said the applicant is asking for one piece of the pie under this use type, not asking for the whole pie. Any permanent structures

would require a building permit and may require another SUP. They would be required to meet applicable parking.

Member Lawrence said he is willing to submit to the desire of the Board what they want to do. He said four parking spots is not a lot considering one spot is handicap. He said it's more feasible to have eight. He said he isn't steadfast and will go with what the Board wants to do. Chair Hill said eight is appropriate if its ok with the applicant. Mr. Strother agreed with eight. Member Pierce agreed.

The Board members agreed upon the motion, including condition 1(o) with eight parking spots.

Member Thomas seconded the motion which carried unanimously.

**The Board took a brief recess. They reconvened at 3:45 p.m.**

**E. Special Use Permit Case Number WSUP20-0026 (Bowl Incline) [For possible action] –**

For hearing, discussion, and possible action to approve a special use permit for an outdoor amusement use type and to expand an amusements and recreation services use type. These use types require a Special Use Permit per the Incline Village Commercial Community Plan.

- Applicant/Property Owner: Steven and Tracy Tomkovicz
- Location: 920 Southwood Boulevard
- APN: 132-232-08
- Parcel Size: 1.18 Acres
- Master Plan: Commercial (C)
- Regulatory Zone: General Commercial (GC)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 1 – Commissioner Hill
- Staff: Chris Bronczyk, Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775.328.3612
- Email: [cbronczyk@washoecounty.us](mailto:cbronczyk@washoecounty.us)

Chris Bronczyk, Planner, reviewed his staff report dated January 15, 2021.

Chair Hill asked if there will be a separate application for changing the sign. Mr. Bronczyk said the sign didn't meet basic standards and it wouldn't be approved as this SUP but as a separate application at building permit stage.

Chair Hill said she received emails from the public expressing opposition of the project.

Wyatt Ogilvy, applicant representative, was present to answer question. He stated he has worked out the recommended conditions of approval. He noted the comments from the Incline Village/Crystal Bay CAB were regarding noise and hours of operations and alcohol sales. There is a lot of community support. It's been in the community for a long time. He said it's within the commercial core of the community plan and kitty-corner to the middle school.

Member Thomas asked about the outdoor theater. He said that was one of the concerns expressed in the email from the public comments. Mr. Ogilvy said the outdoor area is a combination of uses. The owner is working towards building permits and they are trying to generate more year-round community gathering spaces for Incline Village. He said it's a relatively small component of the outdoor area. He said we tried to limit the hours of operations to reduce noise impacts. In discussion regarding limitation, there weren't timeframes discussed. Mr. Tomkovicz, owner, said the

theater is a misnomer. He said it's a large TV that people could sit and watch TV or a sporting event. Member Thomas said that is different than a large outdoor theater.

Chair Hill said she received emails from public members who live in the apartments in the residential area and are concerned about noise. She asked if he could be more sympathetic to the residential neighbors. One of the conditions is that amplified music is prohibited past 10 p.m. She asked if Mr. Tomkovicz could accept turning off music past 10 p.m. Mr. Tomkovicz said there won't be any music after 10 p.m. to keep with recommendation of the CAB. All the speakers will be turned off. There will be no music.

Chair Hill said IVGID put in a new bocce ball court and the people from the racquet club can hear the players yell and scream at night in the summer. She said she requests that bocce ball stops at 10 p.m. Mr. Tomkovicz said this is the first time they are owning a bowling alley. He said this is a major financial investment in the community to help the community. He said he wants to respect the neighbors. He said the bowling alley gets busy after skiing in the winter. He said it's slower in the summer. No one wants to be in a bowling alley in the summers when it's beautiful outside. Chair Hill asked if bocce ball after 10 p.m. is really necessary. Mr. Tomkovicz said he would like to think about it and keep the recommendation of the local Board. Chair Hill said she wants to be sympathetic to him being a new business owner in town, but just wanted him to be aware of the bocce ball complaints by the racquet club residents. She asked if people complain, would he consider decreasing the hours after 10 p.m. Mr. Tomkovicz said they are proud to be members of the community, but hate to make a decision because he doesn't know what that looks like yet.

Member Pierce asked if a sound wall can be put up to help with the noise for the residents. Mr. Tomkovicz said absolutely. He referenced the plans. A lot of landscaping, trees. The wall and family climbing center will be there and will be shut down at 10 p.m. He said it will also block the sound. Mr. Ogilvy said the bar, fire pit, and seating area has a roof structure over it which will help subdue the sound. The climbing wall will also help buffer.

Member Pierce said he has received emails both ways. The biggest request is sound be minimal after 10 p.m.

#### Public Comment:

The recording secretary noted she received 17 emails regarding this project. 15 were in support of the project and 2 were against. They are posted on the Board webpage.

Tim Kelly said he is the IVGID Sports and Community supervisor at the Parks and Rec. He said he runs all the programming from adult to youth sports at the rec center and facilities. He said he is an Incline Village native. He said he is a homeowner. He said this is an important cause. He said he grew up at the bowling alley. He said he was excited to meet with the owners. It's important to have this new bowling event center. It's important for the town. He said he and his wife have been youth ministers for Young Life for the past 5 years. They are involved with youth. He said he coaches boy's varsity basketball. He said it's important to have a year-round center for our kids to hang out and be safe. He said he has a 10, 8, and 6-year old. He said they are invested in this town. They will be there for a long time. He said to have new energy with the owners Steve and Tracy is important. He said he understands it's new for them and loves the idea for the youth to hang out. He said when he heard about the plans as a safe place, it's a huge plus for the community. It's a great thing for us. He said he supports it and will be a huge support system.

Eddie Clearidge said he thinks it's a good idea but concerned about noise. He said he lives within 200 feet of this. He asked how late the outdoor activities will remain open. Mr. Tomkovicz said hours of operations end at midnight. Mr. Claridge thanked him for answering the questions.

Shirley Mueller had technical difficulties. Member Thomas said she submitted an email with her views of the project. It's included in the Board packet.

Joe Hamilton submitted a comment via zoom chat. He said Incline Bowl is surrounded by residences and there should be no outdoor activity after 10 p.m.

With no further request for public comment, Chair Hill closed the public comment period.

Chair Hill asked if the owner lives in Incline Village. Mr. Tomkovicz said we have owned in Incline Village for the last 5 years. He said we are full-time now that they have retired.

Chair Hill said she thinks it's a good project but concerned with noise impacts on surrounding residents. She hopes the applicant can be flexible and turn it down if it gets too loud. There will be outdoor bocce ball, theater, and bar. She hopes they are respectful of the surrounding neighbors.

Member Lawrence said he understands the concerns with noise. He said he has concerns. He said he will leave it to CAB to sway his opinion. He said he will go with that Board and their findings.

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 conditions Special Use Permit Case Number WSUP20-0026 for Steven and Tracy Tomkovicz, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Pierce 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 a bowling alley with outdoor entertainment, 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;
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.

**F. Special Use Permit Case Number WSUP20-0022 (449 Lakeshore Grading) [For possible action]** – For possible action, hearing, and discussion to approve a special use permit for major grading to allow for a driveway to traverse a slope of thirty (30) percent or greater; to construct a permanent earthen structure greater than 4.5 feet in height within the required front yard setback; to excavate 1,398 cubic yards on slopes greater than 15%; and grade 28,380 sf (0.65 acres) on a parcel less than six acres in size. The proposal is also requesting to vary WCC Section 110.438.45 (d) to allow retaining walls taller than and one-half (4.5) feet within the front yard setback.

- Applicant/Property Owner: Myers Family Trust
- Location: 449 Lakeshore Blvd.
- APN: 123-250-08
- Parcel Size: 1.32 Acres
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 438, Grading and Article 810, Special Use Permits

- Commission District: 1 – Commissioner Hill
- Staff: Chris Bronczyk, Planner
- Washoe County Community Services Department
- Planning and Building Division
- Phone: 775.328.3612
- Email: [cbronczyk@washoecounty.us](mailto:cbronczyk@washoecounty.us)

Chris Bronczyk, Planner, reviewed his staff report dated January 11, 2021.

Chair Hill asked about construction in this area with cranes on highway 28. She asked if the applicant has given any assurances that the cranes will be staged on-site. Mr. Bronczyk stated this came up at the Incline Village/Crystal Bay CAB meeting and the applicant told the CAB that the crane will be on-site.

Mike Railey, the applicant representative, was available to answer questions. He said the crane will be contained on-site except for when they are doing final paving. He said he understands those concerns for Crystal Bay.

Chair Hill asked about visual impact from the lake. She asked how high this structure from lowest point of the natural grade to highest roof pitch. Mr. Railey said he doesn't have the dimensions but he has photo simulations. He said the peak of the house is below the road and the house will screen the grading. The grading is going on behind the house. He said he will show the photo simulations. Mr. Railey said the house plans were already approved by TRPA and isn't part of this request. He said he can find that out.

Mike Railey provided a PowerPoint presentation. He stated Jim, the project engineer was available.

Member Thomas asked for the ground to roof apex. Mr. Railey said he doesn't have that. He said the architecture was already approved. Mr. Railey reviewed the renderings and said the house is at 6,280' base elevation and the roadway is 6,330'. The house is 35 feet tall.

Member Lawrence asked how long this going to take. Mr. Railey said the Myers family is anxious to complete their dream home. He said assuming they get the approval, they will break ground in Spring. He said weather permitting, 8-month construction timeframe. He said a year to 1.5 years with weather delays. Chair Hill said the TRPA permit expires soon so they should break ground.

Chair Hill asked if there is access to the lake. Mr. Railey said just foot access. There is a buoy, but no plans for a pier.

With no requests for public comment, Chair Hill closed the public comment period.

Member Pierce said it looks like a reasonable project and they dotted their 'i's and crossed their 't's. Chair Hill said it's an arduous process for sure.

Chair Hill said when she received the packet, she thought there was a mistake because it was a carbon copy of what we heard at the last meeting. The actual property compared to this one is the next property over. The request for 30% grade and the height of earthen structures and TRPA and NDOT approvals. They are so similar in nature. Almost a carbon copy. Chair Hill said for 447 Lakeshore projects, there was a variance involved and the height was more than two stories. Not that we are considering that. It was a massive structure. The other one had more deviation from the code.

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 approve with conditions Special Use Permit Case Number WSUP20-0022 for the Myers Family Trust, having made all five findings in accordance with Washoe County Code Section 110.810.30. 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 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 single family residential, 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;
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.

**G. Special Use Permit Case Number SB13-008 (De La Luz Horse Racing Event Revocation)**  
**[For possible action]** – For possible action, hearing, and discussion to revoke Special Use Permit Case Number SB13-008 (De La Luz Horse Racing Events) for cause, specifically non-compliance with one or more conditions of approval, in accordance with Section 110.810.70(b)(2) and (3) of the Washoe County Code.

• Applicant:	Washoe County
• Property Owner:	Hilaria De La Luz
• Location:	6205 Grass Valley Road, Warm Springs Valley
• APN:	076-340-13
• Parcel Size:	+40.13 acres
• Master Plan:	Rural (R)
• Regulatory Zone:	General Rural Agriculture (GRA)
• Area Plan:	Warm Springs
• Citizen Advisory Board:	Warm Springs
• Development Code:	Authorized in 302, Allowed Uses; and Article 810, Special Use Permits
• Commission District:	5 – Commissioner Herman
• Staff:	Chris Bronczyk, Planner Washoe County Community Services Department Planning and Building Division
• Phone:	775.328.3612
• Email:	<a href="mailto:cbronczyk@washoecounty.us">cbronczyk@washoecounty.us</a>

Chris Bronczyk, planner, reviewed his staff report dated January 5, 2021.

Member Pierce said staff has gone above and beyond to do whatever is necessary and weren't getting any response. He said it sounds like staff has given them every chance. Mr. Bronczyk said staff has reached out, sent notices, worked with them, and held meetings in the past. In 2019, they were much better meeting requirements, but 2020 went off the rails. Chad Giesinger, Planning Manager, was in the meeting and said Jim English from the Health District is also available. He said there were instances when health code wasn't followed including dust control. He said the first year, compliance check was in check, but after that, it was a challenge. He said during 2020, the Health District was concerned events were being held during COVID. The Palomino Valley GID also complained they haven't met the dust control requirements.

Member Thomas said he is curious why we are at this juncture since there is documentation there were violations in the past. He asked if there was any consideration to revoke prior to this time. Mr.

Giesinger said the planning office doesn't take this step often or lightly. It's an onerous process. He said it hadn't risen to this level until the violation of COVID restrictions and more stringent requests from other agencies who are spending staff time dealing with it. He said this is why it has taken this long.

Sandy De La Luz, business and property owner, said they had a Warm Springs/Rural CAB meeting with staff. She said when they had a discussion with Chris, they couldn't discuss much about their permit. And during the meeting with Chris, there wasn't much to talk about because not enough members showed up. She said she never received a notice to attend the meeting. She said she saw an email after a couple of months. She said the meeting in October was delayed until this month. She said she received that letter a week ago. She indicated staff said they held an event in 2020 which wasn't true. She said Chris said he had pictures. She said they have a calendar of events but couldn't hold them because of the pandemic. She said the Board needs to focus on the 2020 and shouldn't focus on what happened in years before. She said staff changed offices. She said she feels they are satisfying the requirements of the permits. She said they have been submitting dust control plans. She said she doesn't feel what has been said is true.

Member Lawrence said he was a regulatory official for 25 years and the reason for revocation is because of history of noncompliance with standards and operating practices that this operation has consistently failed or not communicated with staff. He asked why Ms. De La Luz let their business license run out in 2020. Ms. De La Luz said she let the license expire. She said we had a family member pass away and had to travel outside of the US and wasn't available. She left her sister to run the operation. She said she tried to renew but it was closed. She said she talked to Chris, but he said to hold on. She said she tried to renew it.

Public Comment:

Alex Rejas said this ranch has provided security, ambulance, and he said the other ranch had multiple events with no COVID practices and procedures. They were allowed to have two events with 25 people, which was exceeded. He listed the dates the other ranch held events. There was no social distancing and no masks. He said he has videos with hundreds of people in attendance. He said he read documentation sent to them and that is not real. If they revoke this license, the other ranch should be revoked. It's ridiculous.

With no further request for public comment, Chair Hill closed the public comment period.

Chair Hill said to Mr. Rojas, we look at each individual case. We don't look at the example that you provided and allow you to do the same. She said thank you for bringing it to our attention. This project is the only one before us with specific merits, at this time.

Member Pierce asked if the Board could make a motion to give them 6 months and if nothing changes, we can revoke. Chair Hill said staff has tried to do that. The Board has the authority to provide for some modification. The BOA, who makes the recommendation to BCC, could grant additional time. Mr. Giesinger said Ms. De La Luz have had several opportunities and time to conduct this properly. They have ignored several stop activity orders, which is a criminal misdemeanor offense. We could go that route but are trying not to go that extreme. When you leave stop activity orders, you need the activity to stop and the property owner to contact code enforcement staff to work with them, but we didn't even get that.

DDA Large said the way the code provision is written the BOA makes a recommendation on what is before the Board. The Board can either say "move to revoke", or not revoke. Regardless, this will go forward to the BCC for their final approval. They will make the ultimate decision. He said due to procedure, a 6 month extension is not available according Washoe County Code Section 110.810.70 (c). What is before you a revocation or not.

Member Lawrence said he was on this Board when this came before them in 2013. He said he recalls long ago, all intentions were to run the facility to the County Code requirements with Health, security, and bathrooms. He said the County has bent over too far to gain compliance. It is the

Boards responsibility and obligation for the citizens of this area, to revoke this permit. They have demonstrated lack of judgement or character to have this permit. Failing to communicate with regulatory staff, to burden law enforcement, and Palomino Valley GID. They've all suffered because of lack of compliance with standards in which they are supposed to operate. He said he agrees with revocation.

Member Thomas said he echoes Member Lawrence. The documents are comprehensive in nature. They have had several opportunities to comply and failed to do so. We have emergency services, sheriff, Palomino Valley GID, and Warm Springs CAB in support of revocation of this SUP. That in and of itself is important to take into consideration. He said he is in favor of revocation.

DDA Large said the chat section is requesting public comment. He said it's the chair's discretion. Chair Hill said she will keep it closed.

Chair 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 revoke Special Use Permit Case Number SB13-008, having made two of the grounds for revocation in accordance with Washoe County Code Section 110.810.70(b)(2) and (3): Grounds for Revocation. A special use permit may be revoked pursuant to the provisions of this section upon a finding of any one (1) or more of the following grounds. Member Pierce seconded the motion which carried unanimously.

- (1) That the special use permit approval was obtained or extended by fraud;
- (2) That one (1) or more of the conditions upon which such development approval was granted have been violated; or
- (3) That the use or facility for which the development approval was granted is so conducted or maintained as to be detrimental to the public health or safety, or as to be a public nuisance.

DDA Large said applicant will be notified of the BCC hearing. They have the right to appeal; as matter of course, the BCC has to revoke the SUP.

## **9. Chair and Board Items [Non-action item]**

### **A. Future Agenda Items**

DDA Large welcomed Mr. Pierce. He asked if he needs Open Meeting Law training, please let him know.

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

None

## **10. Director's and Legal Counsel's Items [Non-action item]**

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

Trevor Lloyd said the County Commissioners adoption of Tahoe Area Plan. It's been long overdue. He said he will give a summary or update in the future. Chair Hill congratulated the County on getting it done. She said she lives in Tyrolian Village in Incline Village. It was considered a special area. She said we were determined that was a mistake. It will be corrected after adoption.

### **B. Legal Information and Updates**

None

## **11. Public Comment [Non-action item]**

Sandy De La Luz said she doesn't agree with the decision. She said she was accused for something that just happen in 2020 and dragged into everything since they got the permit. She said

she put a lot of money into this. She said they have to pay rent, security, and fire inspections. She said staff is bringing everything up and accusing me of illegal events. She said we told Chris those were not events happening at this house. She said she would like a second chance. She said she has put a lot of money into this. She said she does care about it and cares about the people who come to the place. She said she talked to the neighbors. You always look at my racetrack. The other one is not in compliance. They had more than two events with more than 25 people. People were not in compliance. There is other stuff that has happened in the past. She said she knows the other track had a lady pass away after an incident with a horse. She said she knows she isn't in compliance and we aren't talking about the other's events, but you should investigate them. She said they race horses and they aren't supposed to be racing horses.

There were no further requests for public comment.

**12. Adjournment [Non-action item]**

The meeting adjourned at 5:34 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in Session on \_\_\_\_\_ 2021

Trevor Lloyd  
Secretary of the Board of Adjustment

DRAFT