



# WASHOE COUNTY

*Integrity Communication Service*

[www.washoecounty.us](http://www.washoecounty.us)

CM/ACM \_\_\_\_\_

Finance \_\_\_\_\_

DA \_\_\_\_\_

Risk Mgt N/A

HR N/A

Comptroller \_\_\_\_\_

## STAFF REPORT

**BOARD MEETING DATE:** November 28, 2017

**DATE:** November 3, 2017

**TO:** Board of County Commissioners

**FROM:** Kelly Mullin, AICP, Senior Planner, Planning and Building Division, Community Services Department, 328-3608, [kmullin@washoecounty.us](mailto:kmullin@washoecounty.us)

**THROUGH:** Mojra Hauenstein, Arch., AICP, Division Director, Planning and Building Community Services Department, 328-3619, [mhauenstein@washoecounty.us](mailto:mhauenstein@washoecounty.us)

**SUBJECT:** Hearing and discussion to affirm, modify or reverse the Board of Adjustment's partial approval of Special Use Permit Case Number WSUP17-0014 (Gail Willey). This request is for the business operation of Gail Willey Landscaping and Colorock, which the applicant has described as a wholesale nursery facility with incidental retail sales. Staff has classified the proposed operation under the following uses: Wholesaling, Storage and Distribution – Heavy; Construction Sales and Services; and Wholesale Nursery. If approved as submitted by the applicant, the permit would generally include (1) the sale, storage, and disposal of trees, flowers, plants, and associated landscaping materials, (2) the sale, storage, and disposal of various types of rock, (3) the use of a variety of storage and office facilities on site, (4) parking for customers and employees, and (5) the use of a variety of trucks and other vehicles, machinery, and equipment associated with the operation. A separate special use permit (not yet submitted) would be necessary to facilitate proposed access to the operation, which would include construction of a vehicle bridge across Steamboat Creek, a Significant Hydrologic Resource.

The Board of Adjustment's partial approval allows for the uses staff believes qualify under the wholesale nursery portion of the request, including sale of plants, trees and flowers. The partial approval does not, however, allow the uses staff believes qualify as the Construction Sales and Services use type – a commercial use not allowed in the General Rural (GR) regulatory zone – nor the Colorock operations (Wholesaling, Storage and Distribution – Heavy use type) – an industrial use not allowed in the GR regulatory zone. In this appeal, the applicant asserts that all proposed uses qualify as a wholesale nursery with incidental retail sales and should therefore be allowed on the subject property in the GR regulatory zone with an appropriate special use permit.

The site is located at 134 Andrew Lane, approximately 500 feet south of its intersection with Highway 395 and within Section 5, T17N, R20E, MDM, Washoe County, NV. The parcel (APN: 017-430-01) is ±35.9-acres in size and within the boundaries of the South Valleys Area Plan.

**AGENDA ITEM #** \_\_\_\_\_

The Master Plan category is Rural, and the regulatory zone is General Rural. The property owner is Willey Land, LLC, and the appellant is Gail Willey Landscaping. (Commission District 2.)

---

### **SUMMARY**

The appellant is seeking to overturn the Board of Adjustment's partial approval of Special Use Permit Case Number WSUP17-0014 (Gail Willey) and have the Washoe County Board of Commissioners (Board) approve the special use permit with the full range of operations initially requested by the applicant.

The Board may choose to affirm, modify or reverse the Board of Adjustment's action to partially approve the request.

Washoe County Strategic Objective supported by this item: Stewardship of our community.

### **PREVIOUS ACTIONS**

On September 14, 2017, the South Truckee Meadows/Washoe Valley Citizen Advisory Board (CAB) heard details of the proposed project. Concerns were largely related to the following topics: floodway, floodplain, and potential wetlands on the property; Colorock material being swept into Steamboat Creek during flood events; traffic, dust and noise; proximity to Andrew Lane; heavy industrial use in a rural residential area; not meeting the policies of the South Valleys Area Plan or character statement; public consternation that this is the third attempt at bringing this use to this property; hours of operation; size of bridge needed to support the operation; and visual impacts from the highway, dramatically changing the character of the area. The CAB voted unanimously to recommend denial of the project, stating that GR is not an appropriate regulatory zone for this type of business, and 134 Andrew Lane is not an appropriate location.

On October 5, 2017, the Board of Adjustment held a public hearing and took public testimony on the proposed project. Public comments were largely focused on topics similar to those discussed at the September 14<sup>th</sup> CAB meeting. Draft minutes of the meeting are included with this staff report as Attachment C. The Board of Adjustment voted 4-1 to partially approve the proposed project with conditions of approval as recommended by staff.

### **BACKGROUND**

The applicant is seeking to relocate two businesses (Gail Willey Landscaping and Colorock) from their current location in Reno to 134 Andrew Lane – a property with a regulatory zone of General Rural (GR) located in Pleasant Valley.

The applicant asserts there is only a single proposed use onsite, and that use is a wholesale nursery with incidental retail sales. However, staff and the Board of Adjustment have determined that only a portion of the proposed business operations fall under the wholesale nursery commercial use type, which is described in Washoe County Code (WCC) Section 110.304.25(x) as follows:

Nursery Sales. Nursery sales use type refers to the sales of plants, flowers and related nursery items. The following are nursery sales use types:

- (1) Retail. Retail refers to retail sale of plants and flowers and related nursery items. Typical uses include retail nurseries and home garden stores.
- (2) Wholesale. Wholesale refers to wholesaling of plants and flowers, with incidental retail sales. Typical uses include wholesale nurseries.

Staff and the Board of Adjustment concluded that there are three separate use types proposed for the operations on the property: (1) Construction Sales and Services – a commercial use type not allowed in the GR regulatory zone; (2) Wholesaling, Storage and Distribution – Heavy – an industrial use type not allowed in the GR regulatory zone; and (3) Nursery Sales – Wholesale – a commercial use type that may be permitted in the GR regulatory zone with the approval of a special use permit.

Full details about the existing and proposed business operations are included with the staff report to the Board of Adjustment, which is provided as Attachment B.

Although it is staff's and the Board of Adjustment's position that two of the three proposed use types are simply not allowed on GR property, the staff analysis provided in Attachment B includes discussion on why the prohibited use types are also not appropriate on the subject site. In large part, this is due to: the proposed operations' impact on surrounding properties and the character of the area; relevant area plan policies and guidance regarding commercial activities in Pleasant Valley; and characteristics of the subject site. This riparian, rural property is severely constrained by a number of natural features. This includes Steamboat Creek and its associated Critical and Sensitive Stream Zone buffer areas, which traverse the property's northern edge along Highway 395. The property also contains FEMA floodway, 100-year floodplain, areas identified as containing potential wetlands, and the Big Ditch irrigation canal. The southern half of the parcel is comprised of a steep hillside with slopes over 30%.

Staff and the Board of Adjustment concluded that although Wholesale Nursery sales of plants, flowers and trees may be permitted and appropriate on the property, the other proposed operations would neither be appropriate nor permitted, as identified in WCC Tables 110.302.05.3 and 110.302.05.4 (Tables of Uses – Commercial and Industrial Use Types). The Board of Adjustment voted to partially approve the project, with conditions. This partial approval allows for the wholesale nursery portion of the request (growing and wholesaling of trees, plants and flowers), but does NOT allow the Construction Sales and Services use type, nor the Colorock operations (Wholesaling, Storage and Distribution – Heavy use type).

### **Basis of Appeal**

The basis for the applicant's appeal is described in Attachment A as follows:

"... the Board of Adjustment erred in concluding that the sale of ground cover and related nursery items constitutes either Wholesaling, Storage or Distribution – Heavy or Construction Sales and Services. Washoe County Development Code Sections 110.304.30(1)(2); 110.304.25(j). Neither of these other use categories are applicable to [Gail Willey Landscaping and Colorock]'s proposed wholesale nursery. The sale of ground cover in the form of decorative rock and other inert materials constitutes the sale of 'related nursery items' within the definition of a 'Nursery-Wholesale commercial use. Washoe County Development Code Section 110.304.25(x)."

*Staff Comment:* Please see the staff report in Attachment B for a full description of the existing business operations and how each major portion of the proposed operations are classified. The sale of plants, flowers and related nursery items are included within the Wholesale Nursery use type. However, the other operations of Colorock and Gail Willey Landscaping fall well outside the scope of the Wholesale Nursery use type, and are captured adequately by the Construction Sales & Services use type, and the Wholesaling, Storage & Distribution – Heavy use type. These other operations include the sale, storage and distribution of rock, boulders, gravel, base, sand, block, brick and other hardscape material from open storage bins on the property; the dumping of landscape and construction debris; various services provided through the company’s truck and equipment fleet; and, landscape and hardscape construction services related to the Gail Willey Landscaping company.

**It is critical that each use type within the proposed business operations be accurately identified in order to ensure that its appropriateness and potential impacts are adequately assessed.**

The applicant is appealing the Board of Adjustment’s partial approval, and is seeking “approval of the special use permit for all of [Gail Willey Landscaping and Colorock]’s proposed operations.” Should the Board grant the appeal, revised recommended conditions of approval have been included with Attachment D (gray-highlighted text signifies changes or additions to the Board of Adjustment’s original conditions of approval).

### **FISCAL IMPACT**

No fiscal impact.

### **RECOMMENDATION**

It is recommended the Board of County Commissioners affirm the Board of Adjustment’s partial approval with conditions of Special Use Permit Case WSUP17-0014 (Gail Willey).

### **POSSIBLE MOTIONS**

Three possible motion options are provided, depending on whether the Board chooses to affirm, modify or reverse the Board of Adjustment’s partial approval of Special Use Permit Case WSUP17-0014 (Gail Willey).

#### **Affirm Partial Approval**

Should the Board agree with the Board of Adjustment’s action, a possible motion would be:

“Move to deny the appeal and affirm the decision of the Board of Adjustment to partially approve with conditions Special Use Permit Case Number WSUP17-0014 (Gail Willey). This includes allowing for the wholesale nursery portion of the request for the sale of plants flowers, and trees, but NOT allowing the Construction Sales and Services use type, nor the Colorock operations (Wholesaling, Storage and Distribution – Heavy use type).”

#### **Modify and Approve with Conditions**

Should the Board wish to modify the Board of Adjustment’s action by granting the appellant’s request and authorizing the full range of proposed uses, a possible motion would be:

“Move to grant the appeal and modify the decision of the Board of Adjustment by approving, with the amended conditions included as Attachment D to this matter, Special Use Permit Case Number WSUP17-0014 (Gail Willey), as originally requested by the applicant and as described in Attachment B.

### **Reverse and Deny**

Should the Board disagree with the Board of Adjustment’s action and wish to reverse the partial approval by denying Special Use Permit Case Number WSUP17-0014 (Gail Willey), a possible motion would be:

“Move to reverse the decision of the Board of Adjustment and deny Special Use Permit Case Number WSUP17-0014 (Gail Willey). This denial is based on the Board’s review of the written materials provided for this item, as well as the oral testimony at the public hearing. The following finding(s) cannot be made by this Board:

*[Select one or more of the following required findings which the Board cannot make, and provide explanation as to why the finding(s) cannot be made.]*

- 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 Nursery Sales - Wholesale, 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) Character Statement. The community character as described in the South Valleys Area Plan Character Statement can be adequately conserved through mitigation of any identified potential negative impacts.
- 7) Air Quality. No significant degradation of air quality will occur as a result of the permit.”

Attachments:

- A. Appeal application
- B. Staff report and addendums for Special Use Permit Case WSUP17-0014
- C. Draft minutes of Oct. 5, 2017 Board of Adjustment meeting
- D. Recommended Conditions of Approval if appellant request is approved

xc: Applicant: Willey Land, LLC, Attn: Gail Willey, PO Box 18789, Reno, NV 89511  
Consultant: Garrett Gordon, Esq., 50 W. Liberty St. #410, Reno, NV 89501