



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: June 21, 2022

DATE: May 25, 2022

TO: Board of County Commissioners

FROM: Courtney Weiche, Senior Planner Community Services Department, Planning & Building, 775.328.3608, cweiche@washoecounty.gov

THROUGH: Mojra Hauenstein, Arch., Planner, Division Director, Planning & Building, Community Services Department, 328-3619, mhauenstein@washoecounty.gov

SUBJECT: Public Hearing: Appeal of the Washoe County Board of Adjustment's denial of Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway) for major grading necessary to facilitate future development on the project site. The proposal included excavation of 127,400 cubic yards of material and 104,040 cubic yards of fill material with approximately 27 acres of disturbed area – most of which has already been previously disturbed. The proposal also included a request to vary the standards of section 110.438.45(c) to allow finished grades to vary by more than ten (10) feet from the natural slope.

The applicants are S3 Development Co., and the property owner is Riverview Estates Properties LLC. The project is located at 0 Interstate 80 West, Reno, NV and encompasses two (2) parcels: APNs 038-181-01 (1.865 ac) and 038-172-14 (26.03 ac). A master plan designation has not yet been established by Washoe County since the City of Reno Sphere of Influence rollback in 2021 (in progress), however a Master Plan Designation of Industrial is being proposed. The regulatory zone is Industrial and both parcels are located in the Verdi Area Plan. Special Use Permits are authorized in Article 810 of the Washoe County Development Code.

There are two appellants: (1) S3 Development Co., project applicant, and; (2) Emanuela Heller-MacNeilage, a resident of Verdi.

The Board of County Commissioners (Board) may affirm, reverse or modify the decision of the Board of Adjustment. The Board's analysis may also include a finding on the issue of standing to bring the appeal in the first place. If the Board modifies or reverses, it may remand the matter back to the Board of Adjustment with instructions. (Commission District 1.)

AGENDA ITEM # _____

SUMMARY

The applicant is requesting a special use permit for major grading in anticipation for future development of a flex space industrial center. The request would allow the development of “super pads” that can be developed with a mix of industrial uses as allowed in the Industrial (I) regulatory zone. The project area encompasses two undeveloped parcels, APN’s 038-172-14 & 038-181-01, totaling approximately 27.9 acres. While the parcels are vacant, significant disturbance to the site has occurred as a result of the railroad, I-80 corridor and various utility projects in the immediate vicinity.

The applicant is proposing the excavation of 127,400 cubic yards of material, and 104,040 cubic yards of fill material. The applicant has requested to vary Washoe County Development Code §110.438.45(c): “*Finish grading shall not vary from the natural slope by more than ten (10) feet in elevation.*” Varying from this standard is allowed per WCDC Article 810.209(e), Special Use Permits which allows the Board of Adjustment or the Board of County Commission to vary development code standards in conjunction with the approval for a special use permit.

On April 7, 2022, the Washoe County Board of Adjustment (BOA) held a public hearing, took public comment, deliberated and denied the requested special use permit, WSUP22-0006 (Reno Tahoe Gateway), citing the inability to make the required findings.

There are two appellants in this matter: Appellant 1, project applicant – S3 Development Co. seeks to overturn the Board of Adjustment’s denial. Appellant 2, Verdi Resident and Co-Chair of Mogul Neighborhood Association, Emanuela Heller-MacNeilage, seeks to affirm the Board of Adjustment denial and to preserve the right to file for Judicial Review under NRS 278.3195 (4).

Washoe County Strategic Objective supported by this item: Economic Impacts

PREVIOUS ACTION

On April 7, 2022, the Washoe County BOA held a duly-noticed public hearing on Special Use Permit Case Number WSUP22-0006. The BOA voted unanimously, with all members present, to deny case number WSUP22-0006 based on the inability to make 3 findings required by Washoe County Code (WCC) Section 110.810.30. Please see Attachment A, *Signed Action Order*, and Attachment C, *BOA Minutes*, for additional information. The Board specifically cited the inability to make the following three (3) findings:

- (a) Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Verdi Area Plan;
- (b) 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;

- (c) 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;

BACKGROUND

Please refer to the April 7, 2022, Board of Adjustment Staff Report, included as Attachment B, for a detailed project description, explanation of the proposed grading and staff analysis and findings. Important to note, staff did provide a recommendation of approval to the Board of Adjustment, subject to the Conditions of Approval.

Appellant 1

On April 21, 2022, the project applicant, S3 Development Co., filed a timely appeal of the April 7, 2022, Washoe County Board of Adjustment decision to deny the WSUP22-0006 for major grading.

The project applicant's representative, Garrett D. Gordon, asserts in their Appeal Application:

"...this special use permit is strictly limited to grading which varies from the natural slope by more than ten feet, all of the requisite findings of approval can readily be made. The Board of Adjustment improperly based its decision on potential, future possibilities for the site, which are not the subject of this request. As demonstrated herein, the grading request is consistent with the Master Plan and the Verdi Area Plan. There is no reason to delay allowing grading to move forward while a Master Plan designation is under consideration as there would be no legal impact on the special use permit for grading. There are not any needed improvements or utilities needed for this grading. The grading proposal will not create any detrimental effect or visual impact on adjacent properties or other nearby development in this area. The grading will also not impact traffic. Future permitting on the site will need to demonstrate compliance with all applicable standards under Washoe County Development Code."

Please refer to Attachment D, *Appellant 1 – S3 Development Co. Appeal Application*, for their appeal rationale in its entirety.

Appellant 2

On April 21, 2022, Verdi area resident and Mogul Neighborhood Association Co-Chair, Emanuela Heller-MacNeilage, filed a timely appeal of the April 7, 2022, Washoe County Board of Adjustment decision to deny the WSUP22-0006 for major grading. Ms. Heller-MacNeilage asserts in the appeal application the intent of the appeal is to affirm the Board of Adjustment denial and to preserve the right to file for Judicial Review under NRS 278.3195 (4). The appeal application indicates agreement with the BOA inability to make the three (3) stated Findings above, as well as a recommendation to include an inability to make Finding #3, Site Suitability.

Please refer to Attachment E, *Appellant 2 – Emanuela Heller-MacNeilage Appeal Application*, for their appeal rationale in its entirety.

Should approval be granted by the BCC, conditions of approval are provided that require appropriate plans and documentation be provided to all relevant County agencies. Compliance with all generally applicable code provisions would be also required.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

There are two appeals for the Board to address. It is recommended that the Board of County Commissioners review the whole of the record and take one of the following actions:

1. Affirm the decision of the Board of Adjustment and deny Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway); or
2. Reverse the decision of the Board of Adjustment and approve Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway).

POSSIBLE MOTION

Should the Board agree with the action taken by the Board of Adjustment, a possible motion would be:

“Move to affirm the decision of the Board of Adjustment to deny the Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway). The affirmance is based upon the inability to make the findings required by WCC Sections 110.810.30, Findings.”

or

Should the Board disagree with the Board of Adjustment’s denial of Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway), staff offers the following motion:

“Move to reverse the decision of the Board of Adjustment and approve Special Use Permit Case Number WSUP22-0006 (Reno Tahoe Gateway). The reversal is based on the Board’s ability to make the findings required by WCC Section 110.810.30, Findings.”

All the following attachments included for the Board’s consideration, constitute the whole Record on Appeal:

ATTACHMENTS / RECORD ON APPEAL:

Attachment A: BOA Action Order for WPSUP22-0006

Attachment B: BOA Staff Report for WPSUP22-0006

Attachment C: BOA Minutes of April 7, 2022

Attachment D: Appellant 1 – S3 Development Co. Appeal Application

Attachment E: Appellant 2 – Emanuela Heller-MacNeilage Appeal Application

Attachment F: Video Recording of BOA Hearing

Attachment G: Staff Presentation to BOA

Attachment H: Applicant Presentation to BOA

Attachment I: Public Comment Presentations to BOA

Attachment J: BOA Public Comment

CC:

Appellant 1

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Professional
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Appellant Counsel: Garrett Gordon, Esq.
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Appellant 2

Applicant: Emanuela Heller-MacNeilage
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