



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: February 11, 2025

DATE: January 10, 2025

TO: Board of County Commissioners

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

THROUGH: Kelly Mullin, AICP, Division Director, Planning & Building Division,
Community Services Department, (775) 328-3619,
kmullin@washoecounty.gov

SUBJECT: Public Hearing: Appeal of the Washoe County Board of Adjustment's denial of special use permit case number WSUP24-0015 (Bryan Canyon Grading) for major grading resulting in up to 6-acres of land disturbance, 14,754 cy of cut & 14,753 cy of fill, to create a dam structure to build a pond and rectify past illegal grading.

The appellant and property owner is SC Advisors, LLC. The subject parcel is located at 0 Bryan Canyon Road (APN 055-301-38), has a master plan designation of Rural (R) and a regulatory zone designation of General Rural (GR).

The Board of County Commissioners (Board) shall consider the appeal based on the record on appeal and any additional evidence submitted at the Board's public hearing. The Board may affirm, modify or reverse the Board of Adjustment's decision. If the Board reverses the Board of Adjustment's decision, the Board may remand the matter back to the Board of Adjustment or directly grant the special use permit.

(Commission District 2.) FOR POSSIBLE ACTION

SUMMARY

The appellant, SC Advisors, LLC, is appealing the Washoe County Board of Adjustment's denial of the special use permit for proposed major grading. The appellant alleges "*the Board [BOA] was focused on the pond itself and did not consider that the special use permit application was for major grading.*" The appellant goes on to assert that the Board of Adjustment did not adequately state why they could not make the required findings.

Washoe County staff recommended approval of the special use permit for the reasons discussed in the Board of Adjustment staff report (*see* Attachment C) and discussed at the

AGENDA ITEM # _____

Board of Adjustment's December 5, 2024, public hearing on this matter. The video recording of the public hearing can be found in Attachment E.

The Board of Adjustment denied WSUP24-0015 following a motion to approve that failed to receive a majority vote. The decision was 2 in favor and 3 opposed. *See* Action Order in Attachment A and video recording Attachment E.

The Board shall consider the appeal based on the evidence submitted in the Record on Appeal and any additional evidence presented at the Board's public hearing, and may affirm, reverse, or modify the Board of Adjustment's decision.

Washoe County Strategic Objective supported by this item: Economic Impacts: Meet the needs of our growing community.

PREVIOUS ACTION

December 19, 2024. Appellant, SC Advisors, LLC, submitted an appeal of the Board of Adjustment's decision denying WSUP24-0015 (Bryan Canyon Grading).

December 11, 2024. WSUP24-0015 Action Order was filed and mailed to the applicant.

December 5, 2024. The Washoe County Board of Adjustment denied special use permit case number WSUP24-0015 (Bryan Canyon Grading) for major grading resulting in up to 6-acres of land disturbance, 14,754 cy of cut & 14,753 cy of fill, to create a dam structure to build a pond and rectify past illegal grading.

October 7, 2021. The Washoe County Board of Adjustment denied special use permit case number WSUP21-0024 (Bryan Canyon Grading) for major grading resulting in up to 9.6-acres of land disturbance, 29,062 cy of cut & 29,003 cy of fill, to create a dam structure to build a pond and rectify past illegal grading.

NEIGHBORHOOD MEETING

A neighborhood meeting was not required for this special use permit.

BACKGROUND

The application is a request for a special use permit to rectify past illegal grading on a portion of the subject 346.48-acre parcel to construct a 1-acre pond and to remedy an open code enforcement violation for illegal grading. The major grading request is for up to 6-acres of land disturbance, 14,754 cy of cut & 14,753 cy of fill, to create a dam structure to build a pond and rectify illegal grading by restoring and revegetating 4.7 acres (78%) of the 6 acres of the disturbed area. The application states "*the pond is proposed to be private but would also provide a watering hole for wildlife in the area and an environment for birds. The pond will be stocked for private use by the owner for fishing.*"

The special use permit application was submitted in response to a prior code enforcement case, WVIO-ENG20-0015, for illegal grading, ground disturbance and excavation for a private pond exceeding the thresholds established in Article 438. The property owner is intending to remedy the prior work that was conducted without a permit. The filing of the special use permit application, which is a necessary first step in achieving code compliance, showed the applicant's due diligence in attempting to come into compliance with the Development Code. Based on this due diligence, enforcement action has ceased pending the outcome of this appeal to the Board of County Commissioners.

Approval of the special use permit will allow Washoe County to impose the appropriate conditions for the applicant/appellant to resolve the code violation and bring the property into conformance with code requirements for the previously disturbed portion of the property. If the applicant is unable to obtain approval of a SUP, then there will be no immediate compliance option available to code enforcement or the respondent, and the existing incomplete grading and pond impoundment (which is not engineered) will likely continue to exist for a lengthy period of time. The only remaining compliance options at that point would be county-initiated abatement (at county expense) or for the property owner to do a series of smaller grading/remediation projects that would not trigger a SUP and which only require a building/grading permit. However, either of these remedies could take years to remedy an enforcement case that has been open and unresolved since August 2020.

In order to approve Special Use Permit Case Number WSUP24-0015, a majority of the Board of Adjustment had to make the following five (5) findings, WCC 110.810.30, *Findings*, which are as follows:

- (a) 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;
- (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) Site Suitability. That the site is physically suitable for major grading, and for the intensity of such a development;
- (d) 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;
- (e) 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.

As discussed above, the Board of Adjustment denied WSUP24-0015 following a motion to approve the SUP which received only 2 votes in favor, and 3 opposed.

A full staff analysis of the project and required findings can be found in Attachment C, Board of Adjustment Staff Report.

PUBLIC HEARING NOTICE

Notice for special use permits must be given in accordance with WCC 110.810.25, as amended. Owners of all real property to be noticed are owners identified on the latest County Assessor's ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records.

All property owners located within 500 feet of the area to which the proposed special use permit pertains and a minimum of 30 separately owned parcels nearest the property must be noticed by mail at least 10 days before the public hearing date.

Noticing for this proposal: 37 property owners nearest the subject parcel were noticed by mail not less than 10 days before today's public hearing.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATIONS

It is recommended that the Board of County Commissioners review the whole of the record and consider the record, and any testimony, materials and evidence submitted at the Board's public hearing. The Board may take one of the following actions:

1. Affirm the Board of Adjustment's decision and deny WSUP24-0015 (Bryan Canyon Grading); or
2. Reverse the Board of Adjustment's decision and approve WSUP24-0015 subject to the conditions of approval attached to the original staff report (Bryan Canyon Grading), as presented to the Board of Adjustment.
3. Reverse the Board of Adjustment's decision and remand the matter to the Board of Adjustment with instructions.

POSSIBLE MOTIONS

Should the Board agree with the *Board of Adjustment's* denial of WSUP24-0015 (Bryan Canyon Grading), staff offers the following motion:

"Move to affirm the decision of the Board of Adjustment denying WSUP24-0015 (Bryan Canyon Grading) based upon the inability to make the findings required by WCC Section 110.810.30."

or

Should the Board disagree with the *Board of Adjustment's* denial of WSUP24-0015 (Bryan Canyon Grading), staff offers the following motion:

"Move to reverse the decision of the Board of Adjustment to deny and approve WSUP24-0015 (Bryan Canyon Grading) based upon the ability to make the special use permit findings required by WCC Section 110.810.30 based on the record and evidence presented today."

or

"Move to reverse the decision of the Board of Adjustment to deny WSUP24-0015 and remand to the Board of Adjustment for [instructions from the Board]."

ATTACHMENTS

Attachments A through G Constitute the Record on Appeal:

- A. Board of Adjustment signed Action Order dated 12/11/2024
- B. Appeal Application received 12/19/2024
- C. Board of Adjustment Staff Report with Attachments dated 12/5/2024
- D. Staff PowerPoint Presentation to Board of Adjustment
- E. Video Recording of Board of Adjustment Hearing
- F. Board of Adjustment Meeting Minutes dated 12/5/24
- G. Public Comment Post BOA Agenda Packet

cc: Appellant: SC Advisors LLC, john@johnhurry.com
Owner: SC Advisors LLC, john@johnhurry.com
Applicant Representative: Greg Stedfield, greg@rci-nv.com