

Attachment F

Appeal of Denial of Tentative Subdivision Map

Case Number WTM18-004



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Kim Toulouse, Chair
Clay Thomas, Vice Chair
Kristina Hill
Lee Lawrence
Brad Stanley
Trevor Lloyd, Secretary

Thursday, July 11, 2018
12:30 p.m.

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

The Washoe County Board of Adjustment met in regular session on Thursday, July 11, 2018, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Toulouse called the meeting to order at 12:31 p.m. The following members and staff were present:

Members present:

Lee Lawrence
Kristina Hill
Brad Stanley
Clay Thomas, Vice Chair

Members absent:

Kim Toulouse, Chair

Staff present:

Chris Bronczyk, Planner, Planning and Building Division
Julee Olander, Planner, Planning and Building Division
Roger Pelham, MPA, Senior Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division

2. *Pledge of Allegiance

Member Stanley led the pledge to the flag.

3. *Ethics Law Announcement

Planning Manager, Trevor Lloyd, recited the Ethics Law standards.

4. *Appeal Procedure

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

5. *Public Comment

Jennifer Salisbury spoke about agenda item C, Lemmon Valley Estates. She said she is an at-large member of the North Valleys Citizens Advisory Board. The Lemmon Valley Estates was brought before the CAB where the CAB and citizens expressed concerns. Again on June 11, Lemmon Valley Estate came before the CAB for the ex parte Special Use Permit for grading. Mr. Bluth started grading on the subject project that is proposed for development; he performed grading on 30% grade and trenches, and moved large boulders. She said Mr. Bluth himself said that grading was not supposed to take place until permits were obtained. This is a mere slap on the wrist. Mr. Bluth's requirement should include re-vegetation. Fines should be imposed according to Article 113 of Washoe County Building Code.

No further public comments were made.

6. Approval of Agenda

Vice Chair Thomas asked to move item 8D before item 8C. In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of July 11, 2018 as amended. The motion, seconded by Member Hill, passed four in favor and none opposed.

7. Approval of June 7, 2018 Minutes

Member Hill moved to approve the minutes of June 7, 2018, as written. The motion was seconded by Member Stanley and passed four in favor and none opposed.

8. Public Hearings

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. Administrative Permit Case Number WADMIN18-0007 (Classical Tahoe) – For possible action, hearing, and discussion to approve an administrative permit and outdoor community event business license application, with conditions, for Classical Tahoe, an outdoor concert and "movie night" event to be held at the Sierra Nevada College in Incline Village, Nevada. The concerts will be on July 27, 28, 29, and 31, August 3, 4, and 5, 2018, between the hours of 5:00 p.m. and 8:30 p.m. on each day of the event. There will be supplemental movie nights on July 23, August 6, 7, 10, 11, 12, and 13, 2018, between the hours of 7:30 p.m. and 10:00 p.m. Movie nights will be held outdoors, within the same tent as the concerts. Primary participant and spectator parking will be within the College campus with additional off-site parking at the Incline Village General Improvement District (IVGID) Recreation Facility, if needed. Event organizers estimate that approximately 1,300 participants and spectators will take part in the event during any one three-day event period, with a maximum of 500 participants and spectators on any one day of the event.

- Applicant: Karen Craig
- Property Owner: Sierra Nevada College
- Location: 948 Incline Way
Incline Village, NV 89451
- APN: 127-040-10
- Parcel Size: 17.05 Acres
- Master Plan: Commercial (C)
- Regulatory Zone: Public and Semi-Public Facilities
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village / Crystal Bay
- Development Code: Authorized in Article 310
- Commission District: 1 – Commissioner Berkbigher

- Staff: Chris Bronczyk, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3612
- E-mail: cbronczyk@washoecounty.us

Vice Chair Thomas opened the public hearing.

No disclosures were made by the board members.

Chris Bronczyk, Washoe County Planner, provided a staff report presentation.

No questions were asked by the Board of Adjustments.

Lindsay McIntosh, Classical Tahoe representative, said there will be 3 movie nights with light amplification.

No public comments were made.

Board discussion:

This event is held every year. This is a great family event.

Member Hill moved 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 Administrative Permit Case Number WADMIN18-0007 and the outdoor community event business license application for Classical Tahoe, with the conditions attached at Exhibit A for this matter, having made all four findings in accordance with Washoe County Code Section 110.808.25. I further move to authorize the Director of the Planning and Building Division to issue the outdoor community event business license when all pre-event conditions have been met. Member Lawrence seconded the motion to approve Administrative Permit Case Number WADMIN18-0007 and the outdoor community event business license application for Classical Tahoe, with the conditions attached at Exhibit A. The motion 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 an outdoor community event 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.

B. Special Use Permit Case Number WSUP18-0011 (Murray Grading) – For possible action, hearing, and discussion to approve a special use permit for Major Grading of an area of approximately 80,000 square feet on a parcel of land approximately 2.53 acres in size to facilitate the development of an Agricultural Sales Use Type.

- Applicant: Murray Ranch, LLC
- Property Owner: Reeves Business Ventures
- Location: 225 US Highway 395 South, approximately 700 feet south of its intersection with Old Washoe Drive
- APN: 046-080-03
- Parcel Size: ± 2.53 Acres

- Master Plan: Commercial (C)
- Regulatory Zone: General Commercial (GC)
- 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, MPA, Senior Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775.328.3622
- E-mail: rpelham@washoecounty.us

Vice Chair Thomas opened the public hearing.

No disclosures were made by the board members.

Roger Pelham, Washoe County Planner, provided a staff report presentation.

Member Stanley asked about the removal of 16 trees. Mr. Pelham said that will be adjusted. He spoke about re-vegetation as mostly ground cover. There will be fewer trees, but they will be maintained and healthier; 1 tree of 50 feet of frontage. New trees will be front facing on highway 395. There is spelling correction - 'Murry' to the application.

Applicant, Chris Baker, gave an overview. He said they want to preserve any trees and re-locate them on site. They are an asset for the site and the area. Originally, some of those were considered nuisance or failing tree. A certified arborist will determine if they need removal.

No public comments were made.

Board discussion:

A Board member said he supports the project. We need a tack shop out there. Member Stanley said it's a scenic corridor and appreciates their consideration.

Vice Chair Thomas asked Mr. Pelham if we should strike condition E from the motion. And modification on condition 1(f) from 20% to 10%, and condition 1(h) as presented by staff.

Member Stanley 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 attachment A to the staff report, Special Use Permit Case Number WSUP18-0011 for Murray Ranch, LLC, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Hill seconded the motion to approve, with conditions as included at attachment A to the staff report. The motion 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 Major Grading to facilitate the development of an Agricultural Sales Use Type, 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.

D. Special Use Permit Case Number WSUP18-0009 (Sky Tavern Excavation) – For possible action, hearing, and discussion to approve a special use permit to excavate 39,300 cubic yards of material from Grass Lake and Recreation Pond at the Sky Tavern Ski Area in order to improve the lake/pond and to use the excavated material to expand the parking lot area. Additional improvements will include the construction of approximately 34,218 square feet of new asphalt paving in the parking area, construction of a new 2,000 square foot maintenance building, restoring the culvert for Browns Creek, piping of spring water to the snowmaking pond, and installation of permanent snowmaking pump station. The proposal also requests varying the landscaping, parking and grading requirements by not requiring any additional landscaping or parking spaces and waive the required soils and geology report and the finished grade limit of 10 feet elevation.

- Applicant: Sky Tavern Junior Ski Area
- Property Owner: City of Reno
- Location: 10000 Mt Rose Hwy.
- APN: 048-050-03
- Parcel Size: ±143.07 acres
- Master Plan: Rural
- Regulatory Zone: Parks & Recreation (PR)
- Area Plan: Forest
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 438, Grading and Article 810, Special Use Permits
- Commission District: 1 – Commissioner Berkbigler
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 772.328.3627
- Email: jolander@washoecounty.us

Vice Chair Thomas opened the public hearing.

No disclosures were made by the board members.

Julee Olander, Washoe County Planner, provided a staff report presentation.

Member Hill asked about snowmaking; snowmaking was never used before at Sky Tavern. She asked if the ski hill is just used by the kids in Reno who sign up for the 10 week weekend programs, or is it open to the public. Ms. Olander said currently, the ski hill is snow dependent, and they look forward to having snowmaking. Member Hill said snow making takes a lot of grading to bury the lines. Ms. Olanders said those aren't the plans at this time. They are doing a pump station to use the water from the Grass Lake. Member Hill referenced the Washoe/Storey Conservation District's letter; she asked about wetlands being impacted by fill material; Ms. Olander said the applicant can address those questions. Member Hill asked about the use and modifications of depth of Grass Lake. Ms. Olander said there are sediment issues in Grass Lake and its flowing into the Truckee River. Member Hill asked about lighting for snowmaking at night. Ms. Olander said she doesn't believe they will need lighting. They will make snow during the week days since it operates only on the weekends.

Member Lawrence spoke about site suitability and excavation to improve the lake and reduce erosion on the ski slope. Ms. Olander said it will help mitigate the downstream flows of sediment caused by the erosion from the hill. It won't prevent it; it will mitigate it. He asked about downstream sediment flow issues. Ms. Olander said there have been issues and excavation of the Grass Lake will help with runoff.

Member Stanley asked about CAB concerns making the holding area larger. Ms. Olander said the applicant can address those questions. Vice Chair Thomas said he received a letter from Mr. Sparhawk

about this being a federal land issues and that he was going to contact the Army Corp of Engineers. Ms. Olander said she had not received that letter and understands it's a procedural matter.

Applicant, Bill Henderson, Executive Director of Sky Tavern, a 501(c).3, used to be a City of Reno program. In 1992, 501(c).3 took over the program and area. He said it's been going on for 70 years. He said we need to take care of the property, increase use, maintain and enhance properly, and get kids on snow. We are the anti-video game group.

Mr. Henderson said this is a two part process: first step is water storage. Snowmaking is simpler than the water. He said they need water to move. He said they can make snow by running hoses out of the pump. Eventually, we will want to make snow at the top. He said it's very expensive and labor intensive. He said they will come back about pipes and lights at a later date.

Member Hill asked about water rights. Nathan Robinson spoke about the water rights process. He spoke about the history. Historically, this was agricultural use and became a recreational site. He said they have 21 acre feet of water rights and he said they are asking for 18 acre feet for storage. He said it will be lost as sediment accumulates. He said it is enough to cover the slopes. He said this is a lake that had water rights in 1870s. He said we are cleaning up 150 years of muck. He said cleaning it up will decrease sediment load and sediment downstream. He said the NDOT right-of-way, 150 foot wide, does not constitute a dam.

Julianne Zotter with Robison Engineering, said she spoke with Army Corp of Engineers who told her there are two different types of permits – general permit or individual permit. Each permit requires its own steps. She said she has to research which one applies to them.

Member Hill asked if they are hooked up to sewer or septic. Mr. Henderson said it septic. He said sewer facilities are located in the parking lot. He said they will be on septic until they have to hook up to sewer service; they won't hook up as long as they can in order to save money.

Member Stanley asked if they anticipated the changes to increase the number of days of skiable terrain. Mr. Henderson said there is a nationwide push in Alpine skiing to increase alpine racing. He said it's vetted by the parent's wallet. He said we do everything we can to make it as cheap as possible so kids can get into the sport. He said they are working towards making a training facility, racing, freestyle. David Wise learned to ski at Sky Tavern. He said it's a lifetime sport. This sport matters. It matters to the area; we need to do more. It's the driving force behind the families. That is why the 501 was formed. We will have more days of operations. We want to install lights and do more.

No public comments were made.

Member Lawrence said one of his friends think the best program developed is the Jr. Ski Program. He said he allowed his kids to take this program. He thanked them for keeping this program alive. Member Stanley echoed Member Lawrence's comments. He has had little one's take advantage of this great program.

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 WSUP18-0009 for Sky Tavern Junior Ski Area, having made all four findings in accordance with Washoe County Code Section 110.810.30. Member Hill seconded the motion to approve with conditions Special Use Permit Case Number WSUP18-0009 for Sky Tavern Junior Ski Area. The motion carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Forest;
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 excavation 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.

C. Special Use Permit Case Number WSUP18-0012 (Lemmon Drive Estates) – For possible action, hearing, and discussion to approve a special use permit for after-the-fact grading done without appropriate permits that trigger Major Grading. The grading done includes the construction of a driveway or road that traverses a slope of 30% or greater.

- Applicant/Property Owner: Chuck Bluth/Lakes at Lemmon Valley, LLC
- Location: East side of Lemmon Drive, approximately 700 feet south of its intersection with Military Road
- APN: 552-210-18
- Parcel Size: ± 33.97 acres
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS) - 3 dwellings per acre
- Area Plan: North Valleys
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 438
- Commission District: 5 – Commissioner Herman
- Staff: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3622
- E-mail: rpelham@washoecounty.us

Vice Chair Thomas opened the public hearing.

Roger Pelham, Washoe County Planner, provided a staff report presentation.

Member Hill said she wants to know if this disturbed area was where the 98 homes are proposed. Mr. Pelham said no, and showed it on a map. There is a drainage way in the area; it's a steep slope that was to remain undisturbed. He showed the area suitable for development; which is next to the Mormon Church and the Silver State Kennels.

Member Stanley asked what is the sequencing for a tentative map and Special Use Permit (SUP), and the correction of an SUP under the conditions of a tentative map being appealed at this time. Mr. Pelham spoke about the timing of the process. He said the tentative subdivision map was denied and the appealed has been filed. Applicant asked that the appeal be put on hold while this illegal grading is addressed. If this SUP is approved, the appeal will be moved forward to Board of County Commissioners. If the SUP is denied, we will move forward with code enforcement for illegal grading. Mr. Lloyd said the applicant has the ability to apply for the appeal to Board of County Commissioners if the SUP is denied. Mr. Lloyd said he believes the best way to move forward with restoration is to approve the SUP to allow the applicant to restore site instead of endure a lengthy appeal process. Mr. Edwards said the Board of County Commission, if the matter is heard on appeal, can make a decision without regard to this grading issues; they can include conditions to deal with this by cooperating with code enforcement or seeking SUP which they are doing anyway; Board of County Commissioners can rule on both of them. It's a mixed bag on what they can do. He said this has happen several times before. This is not new direction.

Member Stanley asked if this is approved with conditions, and if Board of County Commissioners denies the plan, what is the net result. Mr. Pelham said restoration is made, and they have a clean record going forward. Mr. Pelham said, if appeal of tentative map is upheld, and SUP is approved, restoration is done, it would be a clean slate; after 12 months, he could re-apply for the same project. If he applies for a different project, he could come in a week later.

Member Stanley asked about bonding - \$2,000 an acre. CAB concerns heard it should be \$1,000,000. He asked the effectiveness of bonding. Mr. Pelham said bonding is done by engineering at \$2,000 an acre for stabilization if they were to walk away from the project. It's not an incentive to get it completed, just making sure it doesn't remain undisturbed. He said they are of limited value. If you choose to go that way, he would refer to DDA for direction and what number would be appropriate.

Member Stanley asked if completion of SUP was satisfactorily signed off, does that have input on the tentative map appeal; Mr. Pelham said no, they are not tied together. Because we have a pending appeal, there is no condition of approval sitting with that appeal. It's a possibility down the road, but not the situation today. Member Stanley said he wants to know about the assurances to get it complete. Mr. Pelham said there is no 100% guarantee assurance it would be completed. If it's not, it would be turned over to code enforcement.

Member Lawrence wanted clarification about code enforcement fines and penalties. Mr. Edwards said there are a lot of options for enforcement. In Article 910 of code, there are provisions for enforcement authority for abatement statement, fines, criminal prosecution, and general provisions. Member Lawrence wanted to know about how many fines code enforcement issues. Mr. Edwards said he didn't know the specific number, but explained that code enforcement works with people to get into compliance. He said approximately 9 out of 10 situations, the County gets voluntary compliance. He said there are several steps resulting in a mix of options to pursue nuisance proceeding. The primary goal is voluntary compliance.

A board member asked about the timing of illegal grading. Back in March, the application for subdivision was submitted; then on May 1, tentative map was heard and denied by the Planning Commission. The grading took place before May 1. Mr. Pelham, after the denial at public hearing, a site inspection was conducted and concluded that SUP thresholds were exceeded. He said the SUP application was submitted within two weeks of that site inspection. They began grading before they knew it was approved.

Dave Snelgrove, CFA, representative for applicant said Roger is correct about timing of when grading was performed. He said when they went out to see the grading Roger said it would need a grading permit. Mr. Snelgrove said it's a mistake. He said it's not fun to represent a plan in this matter. He asked for understanding. It came as a surprise. Mr. Pelham showed a slope analysis plan and pictures of disturbance. He showed crushed sage brush. He showed the slopes percentages suitability for development; drainage ditch, flood plain, proposed development site. Mr. Snelgrove said he will work with the County. This shouldn't have happened.

Dave Snelgrove requested modification and provided them in writing 1(e), 1(d), 1(i), 1(j); 1(g).

Some of the modifications to conditions include: replace rocks and boulders in the natural setting. The applicant thought he could use rocks and boulders at another one of his development. He is requesting it be removed. Mr. Snelgrove said there is no water at the site; he asked for additional flexibility. Replace rocks and boulders on existing roads; he said you cannot put rocks to block legal utility easements. He said one condition says replacement of rocks and boulders as the adjacent location; he said there are no rocks and boulders on the adjacent area. The applicant shall provide irrigation to re-vegetation. He said he wanted to see if there are alternatives to this because we don't have a practical water source. He provided a proposal that was more measurable and workable for vegetation within 3 years. He said the applicant has a water truck, but it will crush vegetation. He spoke about fencing and boulders to sufficiently block access to an area. He provided specific condition language.

Member Lawrence asked how many tons the applicant moved to Sky Vista, his other project. Mr. Snelgrove said he didn't believe any were moved, but rather piled on the same property. Boulders were taken from the hillside to be used at Sky Vista Parkway. Member Lawrence asked Mr. Bluth who gave the go-ahead to start grading.

Mr. Edwards said material of suggested conditions were just provided, a copy was put in the back for the public to review that document. Mr. Snelgrove had additional copies for the public.

Member Stanley asked about photographs. Mr. Snelgrove showed a series of photographs of the conditions of the property.

Member Stanley asked how often the stream gets full. Mr. Snelgrove said he didn't know specifically. The pictures were taken in May, so there is a little runoff.

Member Stanley said he understands the difficulty of this request. Boulders don't need to go back there, but where do they need to go. Mr. Snelgrove said the boulders came from base of rock outcropping. Mr. Snelgrove said we are concerned on where we should put them back. He said he cannot mimic the natural setting because they didn't come from there. He recommends continuance to work on condition language. He said some other language needs tweaking, but ultimately needs to work for the County, but also consider reasonableness to conditions. Some of them are not reasonable. Mr. Snelgrove said he recommends approval with conditions or a continuation.

Mr. Pelham said staff feels conditions are appropriate; he believes one could be written better; the one about not blocking access to easement. They are stringent conditions.

Mr. Snelgrove said he is the de facto project manager, and wasn't noticed of grading. He said he was at the subject site two- or three weeks prior to the May hearing. He said he manages the project, but wasn't aware of the grading. He said he would not have allowed them to do it if they had told him. Vice Chair Thomas asked how long they have been in business. Lakes at Lemmon Valley, LLC has been in business for two years.

Public Comments:

Dan Harold said he is a property owner in the area. He said he attended the May hearing when the issue was brought to light. He said Mr. Bluth said the rocks would be used for other projects. His trustworthiness is not being shown. He showed a picture on the projector of a truck taking rocks from the property. He said we cannot count on his word to restore the property. He is concerned things aren't going to get done and it will continue to be ignored.

Tammy Holt-Still, Lemmon Valley, Swan Lake Recovery Committee, said there was something stated that is untrue – reason it was denied was because of traffic, not because of grading or something illegal. Commissioners didn't like the right-ins and right-outs. She said it has to stop. Misrepresentation and untruths to benefit people like this doing illegal things needs to stop. There is disturbance to the actual waterway and sediment created. It's a major water way down to Swan Lake. His vehicles caused more sediment and runoff. She said this man, no matter what you do or say, he will do what he wants when he wants as long as there weren't major hits to his pocket book. She said he is a developer who has gone rogue. It's times to change. Step up and tell them to knock it off.

Vice Chair Thomas said he had a disclosure that Tammy Holt-Still, public commenter, was his employee at the DMV over 10 years ago. He did not discuss it with her. He doesn't have a pecuniary interest, no commitments in private capacity, no ongoing business with Ms. Holt-Still. Mr. Edwards said it's not a conflict.

Denise Ross said she wasn't in attendance at Commissioners meeting but rather watched it. She said Commissioners called Mr. Bluth up about his disturbance of rocks. He stated he know he wasn't supposed to do it. He stated that the reasons were that there was water all over and he wanted to control the water; he didn't have concern for the people downstream. He needs to be held accountable. She said he should replace the rock by hand, himself. Look at the record of what he said at the Commissioners meeting.

Mr. Bluth said he doesn't know where the photo came from; it's slanderous. He said the statements they made are slanderous. He said he has a reputation of doing things right. He said he messed up on this. Neither Mr. Snelgrove nor Roger knew what he was going to do. He said he should have looked up the code. He said it was turned down at the Commissioner's meeting for traffic, right-in and right-out. He said he can run lines out with sprinklers, water truck on existing roadway and re-vegetation and repair slope. He showed a picture of why he did what he did. He showed the area where he took off the rock. He said he made adjustments regarding retention area due to flooding and wanted to re-direct the waterline on the slope. It would open up two acres of land for a park for the subdivision. He said he

thought he would take the loose rocks and install drainage and retain water to reduce the amount of water going to the lake.

Member Hill said why the name Lakes at Lemmon Valley, LLC. She asked about constructing lakes. No lakes are proposed at this project, but at other projects. He spoke about retention by making it deeper. She asked if he plans to restore. He said yes, but said he doesn't see the purpose of putting the rocks back. He said he will have the work done within a couple of weeks. It's not that much to do once we get a permit. He said it's a simple process with hydro seeds and lines.

Member Lawrence asked if the retention basins were approved. Mr. Bluth said he would change the plan to include a retention pond. The rocks were planned to use for a pond on another project. The waterfall and lakes were approved already for another project in the City on Sky Vista parkway.

Vice Chair Thomas asked if it was true he admitted to being aware and still proceeding. Mr. Bluth said no. He wasn't aware, but should have looked up the code.

Member Hill said she is having a hard time approving an SUP just to show we aren't giving support. Mr. Lloyd said downside; all conditions would be negated imposed by staff. Code enforcement would make sure it was restored. Mr. Pelham said it's complicated. Code enforcement would do minimum to ensure public safety. Restoration plan would be submitted and approved by County engineer. Restoration would be limited to areas and no further impact created. Process to restore, mitigate, and put back where it was taken is within the SUP process. This board has already expressed how they don't like approving SUP, after the fact. He said it's counterintuitive to approve work done that has already taken place; however, it's how we can restore these things. Without SUP, we don't have conditions of approval; they are stringent and not palatable by the applicant. He said conditions of approval is the best opportunity to restore the area. Mr. Pelham said there are no timelines, but it would allow within the next two years, they would have to get appropriate permit to effectuate the SUP and put the boulders back for when the water comes. Putting the rocks back will be more natural, but not completely to an undisturbed state. He said the Board can grant a timeline for conditions.

Mr. Pelham said he speculates; he doesn't know how the Board of County Commissioners will make their decision. He said we are talking about two separate requests. The request you are looking at is disturbance done without permits. Board of County Commissioners will look at tentative map, lots, acres, and product. Grading plays into that, but Board of County Commissioners will need to make the findings. Traffic and flooding played into that. There are many factors. How the Board of County Commissioners will weigh the factors is hard to determine.

Member Stanley asked if Mr. Pelham can craft timelines. He also asked how we achieve a goal because we don't have faith in enforcement to handle this problem. He asked if it's a good idea to recreate a SUP on the fly. Mr. Pelham said conditions in exhibit A are substantially meant to mitigate the impacts upon the area, but he is willing to craft a condition for a timeline. At this time, he said the Board can give direction and continue this forward to next month. Vice Chair Thomas said continuance isn't asked of the Board, but rather from the applicant. Mr. Edwards said yes, applicant can and has requested a continuance. Mr. Snelgrove said he would like to work on conditions; if you aren't comfortable with that and would rather make a decision, he would ask for approval. Mr. Snelgrove said he is concerned for timeline of conditions. There needs to be ample time if it gets approved. He said yes, they are requesting continuance. Mr. Edward said the Board is empowered to grant continuance if that is what the Board wants to do; or vote up or down.

Vice Chair Thomas asked the board to address the granting of continuance. Member Stanley said we were presented with late breaking news. The new information may not be well received by Planning. He said he is wrestling with the issue of making something bad into something good through these adjustments. He said he is concerned with the area cascading of failures. A continuance was a fairly good idea. Member Hill said the conditions of approval are fine as submitted but a motion can be made to move to approve to submit a grading application and do restoration, stabilization prior to subdivision hearing. Restoration, seed mix, temporary irrigation has to happen prior to hearing. Vice Chair Thomas said that is what sits in front of us. The conditions as they stand. Mr. Edwards said the problem is the

Board of Adjustment cannot tell the Board of County Commissioners when they can or cannot hear an item.

Member Lawrence spoke about the integrity of the Board. He said the applicant has 49 years as a builder to begin work without permits is disturbing to me. He questions his integrity. He said he questions with the pictures of the rock pickers. He said he feels denial of the whole thing. He said not to suggest irrigating the property to its formal graded state, he doesn't agree with it. He said people are suffering downstream. He said he doesn't know how to vote on it. Adding a timeframe is not our purviews.

Vice Chair Thomas said a builder who has been in business for 48 years knows he shouldn't grade before approval. He said asking for continuance is not solving it; it's kicking it down the road till the next time. He said he understands Mr. Pelham's conditions. When an individual violates code and we approve it, what message does that send. There is enough information to make a decision. He invited a motion. Member Hill said she is leaning towards approving SUP.

Member Stanley said he is leaning towards continuance or voting it down. He said reason for allowing a continuance, in regards to the the sequencing for tentative map, are we giving a positive signal. No matter what the vote, a continuance affects the other appeals as well. He asked for timing for continuance versus an appeal. Mr. Pelham explained the timing based on approval or denial. Appeal for tentative map would go before Board of County Commissioners. If this project would be denied, it would be turned over to code enforcement. If approved, it would go before the Board of County Commissioners in August.

No one moved to grant continuance.

Member Hill moved to approve so that mitigation, stabilization is on record to occur. No second.

Vice Chair 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 deny, with conditions included at Exhibit A, Special Use Permit Case Number WSUP18-0012 for Chuck Bluth/Lakes at Lemmon Valley, LLC, having not made all five findings in accordance with Washoe County Code Section 110.810.30. Member Stanley seconded the motion to deny Special Use Permit Case Number WSUP18-0012 (Lemmon Drive Estates). Motion carried 3 to 1. Member Hill was against the motion for denial.

1. Consistency. That the proposed use is inconsistent with the action programs, policies, standards and maps of the Master Plan and the North Valleys Area Plan.
4. Issuance is Detrimental. That issuance of the permit will be a 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.

9. Chair and Board Items

*A. Future Agenda Items

*B. Requests for Information from Staff

Vice Chair Thomas requested information regarding what code enforcement does, what they can enforce, and what authorities they have. Member Lawrence asked about how fines were issued by code enforcement. Not necessarily to grading, but construction and SUP uses.

Member Stanley said remediation issues that were mentioned, in tentative map process, can those issues be addressed. Mr. Edwards said we can speak about it off line or agendize it.

10. Director's and Legal Counsel's Items

*A. Report on Previous Board of Adjustment Items

No items.

***B. Legal Information and Updates**

No items.

11. *General Public Comment

Cathy Brandhorst spoke on items of interest to her.

Danny Cleous spoke about the SUP permit for Lemmon Valley Estates which was just denied. He played a clip of recording from the May 1, 2018, Washoe County Planning Commission of the Lemmon Valley Estates public hearing of Mr. Bluth speaking about removing rocks, drainage, and directing water better. Mr. Edwards said the meeting recording is available on the County website.

12. Adjournment

Meeting was adjourned at 3:27 p.m.

Respectfully submitted,
Misty Moga, Independent Contractor

Approved by Board in session on _____, 2018

Trevor Lloyd
Secretary to the Board of Adjustment