

Community Services Department
Planning and Building
APPEAL TO BOARD OF COUNTY
COMMISSIONERS (BCC)
APPLICATION



Community Services Department
Planning and Building
1001 E. Ninth St., Bldg. A
Reno, NV 89512-2845

Telephone: 775.328.6100

Washoe County Appeal of Decision to Board of County Commissioners

Attachment A
Page 2

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Building staff at 775.328.6100.

Appeal of Decision by (Check one)

Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20.

☐ Planning Commission

☒ Board of Adjustment

☐ Hearing Examiner

☐ Other Deciding Body (specify) _____

Appeal Date Information

Note: This appeal must be delivered in writing to the offices of the Planning and Building Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant.

Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).

Date of this appeal: 9-16-2019

Date of action by County: 9/5/2019

Date Decision filed with Secretary: 9/6/2019

Appellant Information

Name: Dennis and Tina DeLaMontany

Phone: 707-483-3728

Address: 999 Foreman Ln

Fax: _____

Email: dennisdlm@gmail.com

City: Healdsburg

State: CA

Zip: 95448

Cell: 707-484-8090

Describe your basis as a person aggrieved by the decision:
See attached

Appealed Decision Information

Application Number: WADMIN19-0014

Project Name: DeLaMontanya Winery

State the specific action(s) and related finding(s) you are appealing:
See attached

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:
See attached

Cite the specific outcome you are requesting with this appeal:
See attached

Did you speak at the public hearing when this item was considered?

☒ Yes
☐ No

Did you submit written comments prior to the action on the item being appealed?

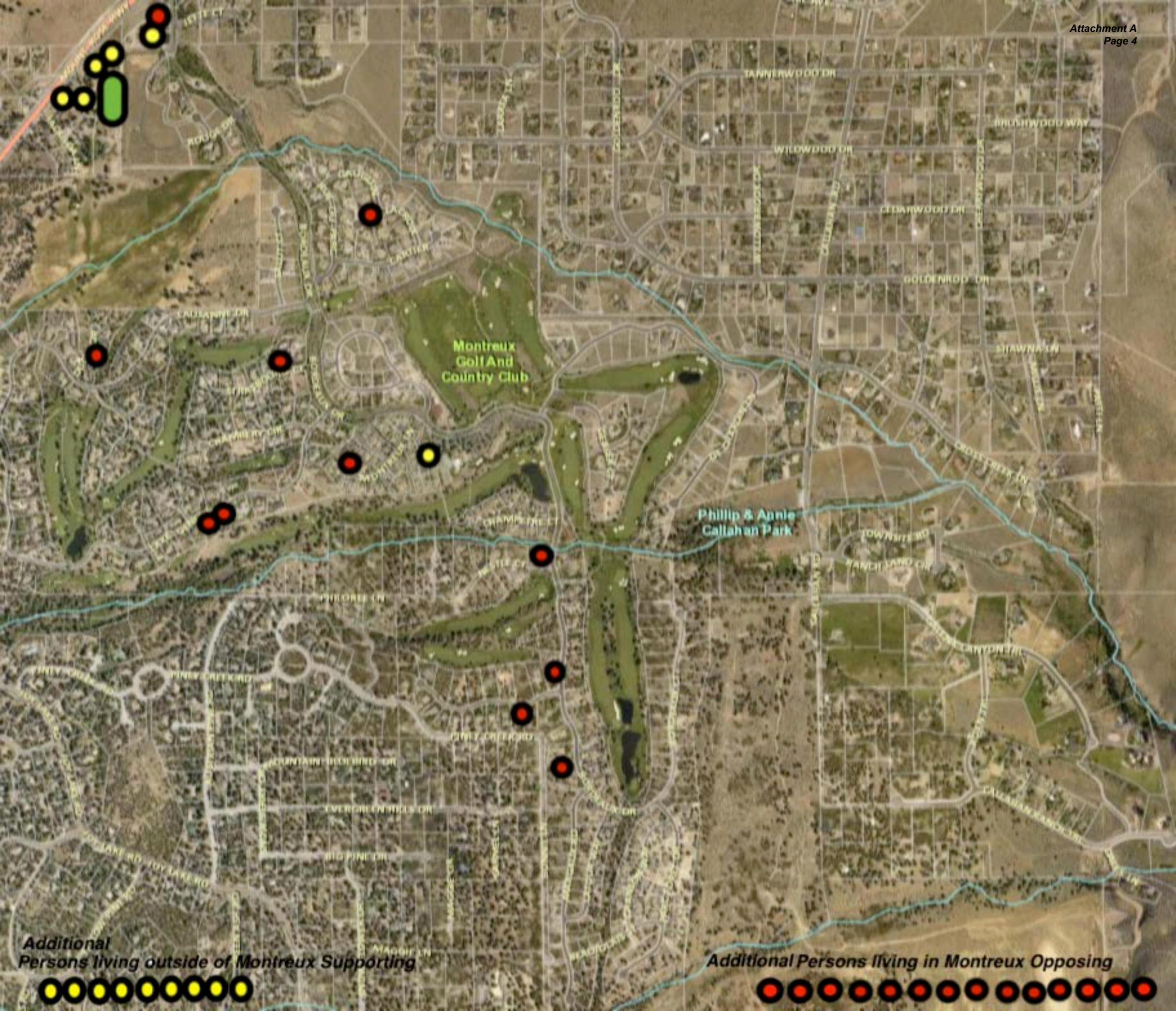
☒ Yes
☐ No

Appellant Signature

Printed Name: Dennis DelaMontoya

Signature: [Handwritten Signature]

Date: 9-16-2019



*Additional
Persons living outside of Montreux Supporting*



Additional Persons living in Montreux Opposing



Appeal Decision Information

Describe your basis as a person aggrieved by the decision: *This decision to deny this project application by two of three Board of Adjustment Commissioners was based on assumptions and not facts presented by Washoe County Staff or the Applicant.*

State the specific action(s) and related finding(s) you are appealing: *The denial of the project based on finding #3 Site Suitability.*

Describe why the decision should or should not have been made: *The DeLaMontanya Winery is a project 3 years in the making. The applicant has met with WC Staff numerous times and gone as far as to enter into escrow on 5 other properties. Those properties did not work as Washoe County and Special Districts (TMWA, WC Environmental Health, NDEP) could not support the project for one reason or another. This site was ultimately selected and purchased because ALL special districts and Washoe County Planning staff supported this site as it "checked all the boxes". This is further justified by Washoe County Planning Staffs recommendation of approval. The denial of this project is a disservice to the WC Planning Staff and the process established in the Washoe County Development Code. What took place was a popularity vote and not a vote based on the facts presented by staff and the applicant.*

Why the project should have been approved:

- *Applicant had full support of Washoe County Planning Staff and Special Districts and project was in compliance with the Washoe County Code;*
- *Applicant went above and beyond the prescriptive requirements of the code and conditioned the project to mitigate any potential conflict;*
- *Applicant listened to the concerns of the public and proposed conditions to mitigate their concerns;*
- *Applicant listened to the concerns of the Board of Adjustment and proposed conditions to mitigate their concerns;*
- *The BOA decision was based on a popularity contest and not based on whether or not the findings could be made for approval. Had we known the decision was based on "public support" letters we could have easily drummed up several hundred letters of support, however we relied on the commissioners to make an educated and informed decision which they failed to do so.*

Prior to the decision to deny this project the commissioners made the following statements. Following their statements is a follow up "RESPONSE" from the applicant. It is important to note that BOA's concerns/comments had been addressed in the staff report and applicant presentation. During deliberations, the two opposing commissioners were making their own assumptions and giving preference to erroneous public comments and not reading the facts presented to them.

Commissioner Stanley:

“The applicant has done a very good of trying to address the community concerns”

RESPONSE: The applicant read through all comments provided by the public. The applicant addressed the community concerns by proposing self-imposed conditions limiting the hours and days of operation. The applicant further limited visitation to “by appointment only” on Monday-Thursday and even further limited the appointments during school bus drop off hours. Additionally, the applicant has proposed signage on the road rights of way and private drive. The applicant team has provided a map of the area and who supported the project and who opposed the project. The surrounding property owners directly adjacent to the property and who will be impacted the most all support the project. All but one of the people who opposed the project are located within the gates of Montreux. This shows the power of circulating an email and social media platforms to garner support or opposition for a project.

“We have heard no resolution to the bus stop and the assumption is that everyone is a sensible driver...and that’s a fun assumption, but that’s the one we have to use”

RESPONSE: Again, The applicant addressed the community concerns by proposing self-imposed conditions limiting the hours and days of operation. The applicant further limited visitation to “by appointment only” on Monday-Thursday and even further limited the appointments during school bus drop off hours. Additionally, the applicant has proposed signage on the road rights of way and private drive. It is important to note that there are no conditions as such that limit golfers or users of the bar in Montreux to similar limitations. The assumption is that they are all sensible drivers.

“We asked about a dozen ways what is an appointment, what is an event and how many people will be there at any given time and we never got an answer to that”

RESPONSE: It was very clearly stated by the applicant and WC staff during presentations at both hearings that the “by appointment only” was a condition that was self imposed to help mitigate potential conflict with the school bus drop off. Additionally, it must be noted that the “by appointment only” language further addresses when the winery is not staffed. There are many hours/days throughout the year when the winery is not open and staff simply is not there, these operations are not staffed 24/7.

“I’m going to propose that we condition the project around occupancy, to establish a maximum number of people being served”

RESPONSE: As explained by staff, the occupancy is determined by the WC Building Department at time of building permit review. Staff further stated that they couldn’t single out one use and make it more restrictive if the code allows for it. Further, this is a tasting room, not a bar. If people want to visit a bar they can go to the wine bar on the other side of the Mt. Rose Highway or to the bar at the Montreux Clubhouse.

“My intent with the occupancy condition was to try and bound this use as it is so open ended and ambiguous”

RESPONSE: The Building and Safety Division Director was kind enough to leave her office and join the meeting to provide additional clarity on this item of discussion. As stated by staff, the occupancy load is determined by at the time of building permit submittal. This is common practice, conditioning a use to a certain number of people is not common practice. This use will generate a maximum occupancy load of approximately 65 people based on the preliminary design.

“Why increase from 5-16 parking spaces?”

RESPONSE: This is a winery, tasting and production use. Per the code, a minimum of 5 parking spaces are required. The use will generate 4 employees. Assuming that those 4 employees drive to work, that leaves 1 parking space for the public. We believe that 16 parking spaces is very fair assuming the use.

Commissioner Thompson:

“I think you’ve done a good job and have made some changes to satisfy the community”

RESPONSE: The applicant read through all comments provided by the public. The applicant addressed the community concerns by proposing self-imposed conditions limiting the hours and days of operation. The applicant further limited visitation to “by appointment only” on Monday-Thursday and even further limited the appointments during school bus drop off hours. Additionally, the applicant has proposed signage on the road rights of way and private drive. The applicant team has provided a map of the area and who supported the project and who opposed the project. The surrounding property owners directly adjacent to the property and who will be impacted the most all support the project. All but one of the people who opposed the project are located within the gates of Montreux. This shows the power of circulating an email and social media platforms to garner support or opposition for a project.

“In the five years of being on the board, this is the one time that I’ve had the most input from the public”

RESPONSE: The attached heat index map citing support and opposition of this project is clear. This map was generated using the attached public comments in the staff report for the 9/5 hearing. Only one person in opposition of this project actually lives outside the gates of Montreux. It is almost unheard of to have unanimous support from adjacent property owners for a new project like this. This project has this. This project is not a popularity contest and the decision to deny or approve needs to be based on meeting WC Development Code Section 110 and not assumptions. The opposition was riled up by a mass email soliciting opposition and social media platforms spreading false and making personal attacks on the owners. It is the responsibility of the commission to put aside assumptions and theories and make decisions based on fact

and code requirements. This decision was not based on the facts presented by staff and the applicant.

“It’s a very strong statement that the community is not in favor of this use in this location”

RESPONSE: See above

“What is an appointment vs. what is a special event?”

RESPONSE: The “by appointment only” language and condition were proposed by the applicant. This language was used and proposed to limit the number of trips during school bus drop offs and also to ensure that staff was available when patrons wanted to visit the winery/tasting room/production facility. It is very common that smaller winery’s have these policies as they are not always staffed fulltime. Contrary to what Mr. Thompson “believes”, this is not a way to circumvent the code to allow for special events. WC staff was very clear that special events are NOT allowed on this site and the owners clearly understand that.

“I have concerns about the school bus stop and the additional 140 homes/1400 trips being generated by those new homes in Montreux”

RESPONSE: The applicant spoke with Washoe County School District Staff (Mike Smith and Mike Boster) and proposed mitigation measures to address concerns regarding the school bus stop at Bordeaux and Jefte Ct. (almost 300 yards from winery gates/entrance). The applicant cannot control surrounding uses nor vacant parcels that will be built out in the future creating additional impacts to the bus stop. The applicant worked with the Washoe County Traffic Engineer and we know that this use will create 30 additional trips per day. The vacant 140 lots in Montreux will create 1,302 additional trips per day, a far greater impact. As the NDOT traffic engineer at the meeting stated “the trips created by this use are negligible”. Again, mitigation measures were proposed to address any potential impacts with the school bus drop off area.

“The applicant was kind enough to continue this once before to add additional conditions, to ask the applicant to go back and make additional conditions would put an undue hardship on him”

RESPONSE: The applicant addressed all the concerns of the Board of Adjustment. At the previous meeting the two commissioners that were not present supported the project when pressed on the matter, they wanted more information regarding the wildlife fencing. Countless hours were spent to address their concerns. They did not show up to the meeting, had they been there the motion to approve the project likely would have passed. Mr. Thompson then followed up this statement with a motion to deny the project.

Commissioner Hill:

“I want to remind you of the owner of the Eddy who was here during the last hearing. He spoke about how people assumed the worst and it ended up being a great asset to the community. I feel this is the same situation”

RESPONSE: The applicant fully agrees with this comment and it reflects exactly what is happening to this project.

“The 30 average daily trips per day will not be impacting people as much as they believe”

RESPONSE: This trip calculation was prepared by a Washoe County Traffic Engineer and further confirmed by the NDOT Regional Transportation Supervisor at the hearing. As the NDOT representative stated, the traffic increase created by this use is “negligible”.

“The use is so far away from the bus stop, there will be signage and the hours/days are limited. Its not a big impact”

RESPONSE: The gate to enter the winery is approximately 300 yards away from the existing bus stop. One could easily argue that the golfers coming off the course and the patrons of the bar in the clubhouse pose a much bigger life-safety issue than a boutique winery/production/tasting facility. Again, this is NOT a bar.

“Leave the occupancy determination up to the experts, the Building Department”

RESPONSE: The applicant has little to no say in regards to the occupancy determination. This is determined by the International Building Code. The applicant met with WC Building Division and it was determined that based on the proposed floor plan, this use would create an occupant load of around 65 maximum persons.

Cite the specific outcome you are requesting with this appeal:

We are requesting approval of our project as recommended by Washoe County Staff and based on the information and facts provided within the BOA staff report. The conditions more than adequately mitigate any potential impacts/concerns of the surrounding neighbors. It says something when all the surrounding property owners support the project, and all but one person who objects to the project live within the gates of Montreux. Please approve this appeal based on the facts contained within the staff report and not a handful of letters written by distant property owners who will see no impacts from the project.