

Attachment E

WSUP20-0002

Washoe County Appeal of Decision to Board of County Commissioners

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.	
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Board of Adjustment
<input type="checkbox"/> Hearing Examiner	<input type="checkbox"/> 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: <u>April 30, 2020</u>	
Date of action by County: <u>April 16, 2020</u>	
Date Decision filed with Secretary: <u>April 22, 2020</u>	
Appellant Information	
Name: Spanish Springs Associates L.P.	Phone: 775-560-6922
Address: 550 W. Plumb Lane, Ste. B 505	Fax: N/A
	Email: jesse@hawcoproperties.com
City: Reno State: NV Zip: 89509	Cell: 775-560-6922
Describe your basis as a person aggrieved by the decision: I am the property owner and applicant of the proposed SUP. The decision for denial was not based on facts or substantial evidence to not make findings #3 - Site Suitability and #4 Issuance not Detrimental. Not only does the decision for denial impact my property it also impacts Washoe County and Spanish Springs as the denial blocks a great opportunity to lower the flood elevation for the greater Spanish Springs area.	
Appealed Decision Information	
Application Number: WSUP20-0002	
Project Name: Boneyard Flat Grading Phase 2	
State the specific action(s) and related finding(s) you are appealing: The Applicant, Spanish Springs Associates, LP is requesting the Board of County Commissioners reverse the Board of Adjustment (BOA) Denial of the SUP based on the BOA failing to provide any substantial evidence to justify not making findings #3 - Site Suitability and #4 - Issuance not Detrimental. It was an abuse of discretion for the BOA to deny the SUP as the Applicant and Washoe County Staff provided substantial evidence as well as appropriate conditions to make those findings. See attached supplemental information in addition to the original application that support the findings. Furthermore, Washoe County Staff recommended approval of the SUP, the CAB provided a recommendation of approval, and Washoe County Staff provided additional information during the Public Hearing that support the findings.	

Appealed Decision Information (continued)

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

On behalf of the Applicant Wood Rodgers presented a strong application and supporting information as to why the SUP request is a benefit for the greater Spanish Springs Area. The SUP request was supported by Washoe County Staff who recommended approval. See attached supplemental information to support findings #3 & #4.

Cite the specific outcome you are requesting with this appeal:

The Applicant is requesting that the Board of Adjustment decision to deny the SUP be overturned on the basis that all the findings can be met as identified by Washoe County Staff, CAB recommendation of approval, and supplemental information attached to this application. The Applicant requests that the Washoe County Board of Commissioners approve the SUP request.

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

☒ Yes
☐ No

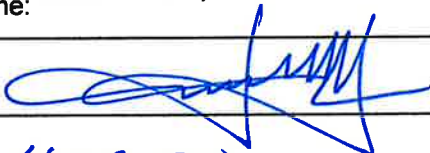
Did you submit written comments prior to the action on the item being appealed?

☐ Yes
☒ No

Appellant Signature

Printed Name: Jesse Haw, President Hawco Properties, GP for Spanish Springs Assoc LP

Signature:



Date:

4-29-20

Board of Adjustment Appeal Supplemental Information

On April 16, 2020 the Board of Adjustment (BOA) denied the Applicant's Grading Special Use Permit (SUP) request. The Applicant's representative, Wood Rodgers, and the Applicant, Spanish Springs Associates, LP as well as Washoe County Staff presented substantial evidence to the BOA as is evident in the testimony and presentations provided during this item. Following the discussion, Washoe County Engineer Dwayne Smith followed up providing additional supporting evidence regarding the findings and the benefits the project provides for Spanish Springs and Washoe County to protect against future flooding. The BOA disregarded the testimony and the substantial evidence provided by their own Staff and moved to deny the SUP stating they could not make findings #3 – Site Suitability, and #4-Issuance Not Detrimental. The BOA failed to provide any substantial evidence to justify not making those findings; therefore, it is an abuse of discretion for the BOA to deny the SUP.

Below please find supplemental information that address findings #3 and #4, which was presented to the BOA to address their questions. This supplemental information and supporting evidence were disregarded by the BOA during the public hearing.

Finding #3 – Site Suitability: *The site is physically suitable for the type of development and for the intensity of development*

- On October 3, 2019 the BOA approved the Phase 1 Grading SUP and were able to make all the findings. The proposed Phase 2 Grading is within the same Project Area and will simply lower the area by up to 10 additional feet creating additional flood control benefits for Spanish Springs.
- As presented by Washoe County Staff, the Project Area is a naturally low area where flood water collects now. The additional 10-feet of excavation will result in an additional reduction of approximately 1.7 feet in the 100-year flood elevation for the surrounding Spanish Springs Area. This reduction will add additional flood protection for homes, businesses, and Washoe County infrastructure.
- The Project Area and surrounding community is within a closed basin. The proposed Phase 2 SUP is a **proactive** way to reduce the risk and destruction of a future flood event should Spanish Springs see a similar event as the North Valleys recently had occur.
- There is no evidence that shows additional grading would impact ground water. Six test pits were dug down to 11-feet within the Project Area. All test pits showed clay materials past the proposed 10-feet of excavation and only one test pit showed ground water, which was at a depth of 10-feet.
- Truck Traffic from additional grading will not impact the surrounding area any more than what is already approved.
 - There is already existing truck traffic utilizing the proposed haul route
 - The additional grading would result in approximately 10 trucks per hour
 - The approved development projects in the area that are most likely to use the fill material would have to have material trucked in from one source or another. In either case the imported material will create temporary truck traffic. This is a typical activity for new development projects.
 - The County road being utilized for the proposed haul route is in an industrial zoned area and has been designed for truck traffic at larger volumes than what will be generated through the grading activities.

Findings #4 – Issuance Not Detrimental; *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; and*

The Project Area is an existing flood storage area and approved borrow pit. The proposed SUP does not change the overall area of excavation and simply digs the pit approximately 10-feet deeper. The same conditions will be applied to the Phase 2 grading SUP as were required for the approved Phase 1 grading SUP. Washoe County Staff have testified to the benefits the additional grading will have on the surrounding area in terms of flood benefits.

As described in Finding #3 above, the site is suitable for this type of activity and will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or determinantal to the character of the surrounding area. More specifically these finding elements are met through the following:

- *Will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties*
 - The Phase 2 SUP is within the same Project Area as grading that has already been approved by the BOA. The additional grading is subject to the same conditions of approval as the Phase 1 SUP setup to protect the adjacent properties. The additional grading will provide significant benefits to the adjacent properties, public health, safety or welfare by providing additional flood storage.
 - Washoe County Engineer Dwayne Smith testified to the BOA of the benefits the proposed Phase 2 grading SUP would have for Washoe County infrastructure should a future flood event occur. These benefits include lowering the flood elevation to protect roadways and utilities.
- *Will not be significantly determinantal to the character of the surrounding area.*
 - The Phase 2 SUP is within the same Project Area as grading that has already been approved by the BOA. The additional grading is subject to the same conditions of approval as the Phase 1 SUP. These conditions include revegetation and grading 4:1 slopes with curvilinear sides to better blend the retention area into the natural environmental.
 - The existing Project Area already serves as a natural retention area.

Please contact Derek Kirkland, AICP at Wood Rodgers via email dkirkland@woodrodgers.com or by phone 775-771-0066 should you have additional questions.