



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: September 22, 2020

DATE: May 13, 2020

TO: Board of County Commissioners

FROM: Roger Pelham, MPA, Senior Planner, Planning and Building Division,
Community Services Department, 328-3622,
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THROUGH: Mojra Hauenstein, Architect, AICP Planner, LEED AP, Director of
Planning and Building, Community Services Department, 328-3619,
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SUBJECT: Public Hearing: Appeal of the denial, by the Washoe County Board of Adjustment of Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2), which sought approval of a special use permit to allow the excavation of approximately 1,000,000 cubic yards of earthen material from the Boneyard Flat area to be used as fill material throughout the Eagle Canyon residential area and the Spanish Springs Business Park industrial area. The project is also intended to increase the holding capacity of the Boneyard Flat flood pool.

The proposed project is located North of the terminus of the Sha-Neva haul road and south and west of the Pebble Creek Subdivision.

The Board may affirm, reverse, or modify the decision of the Board of Adjustment. In doing so, the Board may directly grant all or part of the special use permit request. (Commission District 4.)

SUMMARY

The applicant, Spanish Springs Associates, LP, applied for a special use permit to excavate approximately 1,000,000 cubic yards of earthen material from the Boneyard Flat area to be used as fill material throughout the Eagle Canyon residential area and the Spanish Springs Business Park industrial area. The project is also intended to increase the holding capacity of the Boneyard Flat flood pool.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

AGENDA ITEM # _____

PREVIOUS ACTION

On April 16, 2020, the Washoe County Board of Adjustment (BOA) held a duly-noticed public hearing on Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2). The BOA denied that request, being unable to make the findings that:

3. **Site Suitability.** That the site is physically suitable for major grading for excavation of fill material and to increase flood water storage capacity, 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.

BACKGROUND

The applicant is appealing the decision, made by the Washoe County Board of Adjustment on April 16, 2020, which denied the requested special use permit for Major Grading. The minutes of that meeting are included as an attachment to this report.

The requested special use permit is the second phase of the request, the first phase, to excavate 500,000 cubic yards of material from the same location, was approved by the Board of Adjustment in October of 2019. The request for the second phase was denied by the Board of Adjustment on April 16, 2020. The Board of Adjustment expressed concerns in several areas, primary among them being that the applicant is seeking to lower the level of Boneyard Flat by approximately 10 feet, and that ground water was discovered at approximately 11 feet below the current level in at least one location. The Board of Adjustment expressed that, because untreated storm-water collects at the low-point of boneyard flat and that, after excavation of 1,000,000 cubic yards of earthen material, storm-water would collect just one foot above the possible groundwater level, that insufficient protection was provided for residential wells in the area. For this reason the BOA could not make the required findings of “Site Suitability” and “Issuance Not Detrimental.”

The appellant contends that all findings can be made and that substantial benefit will be provided, particularly to flood storage, upon approval of the requested permit. The appeal application, with their stated position, is included as Attachment E to this report. The appellant contends that finding #3, site suitability, can be made because, among other reasons, the subject site is a natural basin, and clay will remain past the 10-foot excavation area in most locations, and flood storage capacity will be increased. The appellant further contends that finding #4, issuance not detrimental can be made, among other reasons, because the area is already a borrow pit and will benefit the surrounding property owners by increasing flood storage capacity.

The applicant has provided a letter (dated July 21, 2020 and included at Attachment F to this report) evaluating the nitrate levels in the project area. The letter states that the, “analysis adequately addresses and dispels concerns raised about the potential for nitrates to migrate into the ground water due to this project”.

Should approval be granted by the Board, conditions of approval are provided that require appropriate plans and documentation be provided to all relevant County agencies. Compliance with all general-applicable Code provisions would be required.

The proposed project was presented by the applicant's representative at the regularly scheduled Spanish Springs Citizen Advisory Board meeting on March 4, 2020. The CAB unanimously recommended approval of the request, with no particular concerns expressed.

FISCAL IMPACT

No fiscal impact.

POSSIBLE ACTIONS

It is recommended that the Board of County Commissioners review the record and take one of the following three actions:

1. Affirm the decision of the Board of Adjustment and deny Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2); or
2. Reverse the decision of the Board of Adjustment and approve Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) as proposed by the applicant and as evaluated by staff in the Board of Adjustment staff report.
3. Modify the decision of the Board of Adjustment and approve Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) with modified grading plans as proposed by the applicant.

POSSIBLE MOTIONS

Should the Board agree with the decision of the BOA on Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) a possible motion would be:

“Move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners affirm the decision of the Board of Adjustment, and deny Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) for Spanish Springs Associates, LP, being unable to make all five findings in accordance with Washoe County Code Section 110.810.30, including:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Spanish Springs 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 for excavation of fill material and to increase flood water storage capacity, 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.”

Should the Board disagree with the decision of the BOA on Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) a possible motion would be:

“Move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners reverse the decision of the Board of Adjustment, and approve Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) for Spanish Springs Associates, LP, with conditions included as Attachment D to the staff report, being able to make all five findings in accordance with Washoe County Code Section 110.810.30, including:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Spanish Springs 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 for excavation of fill material and to increase flood water storage capacity, 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.

Should the Board choose to modify the decision of the BOA on Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) a possible motion would be:

“Move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners modify the decision of the Board of Adjustment, and approve Special Use Permit Case Number WSUP20-0002 (Boneyard Flat Grading Phase 2) with modified grading plans as proposed by the applicant, for Spanish Springs Associates, LP, with conditions included as Attachment D to the staff report, being able to make all five findings in accordance with Washoe County Code Section 110.810.30, including:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Spanish Springs 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 for excavation of fill material and to increase flood water storage capacity, 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.

Attachments:

A: BOA Action Order for WSUP20-0002

B: BOA Staff Report for WSUP20-0002

C: BOA [draft] minutes of 4/16/2020

D: Possible Conditions of Approval for WSUP20-0002

E: Appeal Application

F: Boneyard Flats Nitrate Testing Letter from Wood Rodgers Dated 7/21/2020

cc:

Spanish Springs Associates, LP, 550 W. Plumb Lane, Suite B 505, Reno, NV 89521

Wood Rodgers, attn.: Derek Kirkland, 1361 Corporate Blvd, Reno, NV, 89502