



JEPSEN & McMENOMY

ATTORNEYS AT LAW

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August 17, 2023

Washoe County Planning Division
Attn: Trevor Lloyd
1001 E. Ninth Street
Reno, Nevada 89512

RE: Safe Embrace (Case # WSUP22-0019) – Appeal of Board of Adjustment Decision

Dear Mr. Lloyd,

Please accept the attached Appeal to Board of County Commissioners Application. Specifically, the request asks that the Washoe County Board of Commissioners (the “BCC”) reconsider the Safe Embrace Special Use Permit (the “SUP”) (Case # WSUP22-0019) and overturn the Board of Adjustment’s denial of Safe Embrace’s SUP.

At the public hearing conducted on August 3, 2023, the Board of Adjustment (the “BOA”) failed to consider facts, analysis and evidence presented by the Washoe County staff, the project applicant and included within the staff report. Instead, the BOA appeared to base their decision on inaccurate public statements, a misunderstanding of the requirements of the Washoe County Code (“WCC”) 110.322.10(c) and an unsubstantiated concern that the Safe Embrace structure does not “fit in with the neighborhood.” Additionally, one of the BOA members appeared to deny the SUP by comparing the occupancy requirements for group care facilities, WCC 110.322.10(c), to the occupancy requirements for Short Term Rentals contained in WCC 110.319.15(e), which contain entirely different requirements. The reliance and or comparison to a completely different section of the code that has no relation to the requirements for a group care facility is arbitrary and capricious.

The purpose of a special use permit is to allow a method of review to identify any potential harmful impacts on *adjacent properties* or *surrounding areas* for uses that may be appropriate within a regulatory zone. WCC Section 110.810.30 requires that five findings must be satisfied for the BOA to grant the SUP request. The five findings are as follows: (1) consistency; (2) improvements; (3) site suitability; (4) issuance not detrimental; and (5) effect on a military installation. Here, two members of the BOA voted against approving Safe Embrace’s SUP request, one of the members stating she found it to be “detrimental,” and one of the members stating that the site was unsuitable for the shelter. These decisions, however, are incorrect because substantial evidence supports all five findings necessary for the granting of Safe Embrace’s SUP.

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100 Vine Street
Reno, Nevada 89503
(775)525-8850

1. FINDINGS

Consistency (WCC 110.810.30(a)) – Here, the property is not located within the Washoe County Master Plan. This is likely because this area was annexed from the City of Sparks. Additionally, the Master Plan elements have no action programs, policies, standards or maps prohibiting the establishment of a group care facility within Washoe County. Thus, even if the property was located within the Master Plan, it would fit with these elements. Finally, the facility has been operating as a group home since 1994, when it was a hospice shelter for AIDS patients at the end of their life. The actual facility has been operating as a shelter for over thirty years, 1994 to 2001 as Bridges in Consciousness and from 2001 to present as Safe Embrace. Therefore, granting the SUP will not disrupt the purpose or activity of the property, as it is already operating as such and has been for over thirty years.

Improvements (WCC 110.810.30(b)) – Here, the improvements have already been made if the Board of Commissioners approves the SUP for an 18-bed facility. The property has adequate utilities, sanitation, water supply, drainage and other necessary facilities to house at least 18 people. Safe Embrace has paid for their share of the road maintenance as the property sits on a private road and the maintenance has taken place since the BOA hearing on August 3, 2023. Further, an adequate public facilities determination has been made in accordance with Division Seven.

If the Board of Commissioners approves the SUP up to 25 beds, Safe Embrace would work with the County and the City of Sparks to determine whether hooking up to the city sewer is feasible. Safe Embrace would operate at 18 beds until it is properly hooked up to the city sewer, as that is the maximum number people allowed with their current septic system. This is the reason Safe Embrace has requested the SUP for at least 18 beds up to 25 beds.

Site Suitability (WCC 110.810.30(c)) – Here, the site is physically suitable for a group care facility. As clearly explained in the BOA hearing, a group home and/or group care facility has been operating at this site since 1994. WWC 110.332.10(c) requires, “a minimum of twelve hundred (1,200) square feet of interior space shall be provided for the first six (6) facility users, and on hundred fifty (150) square feet of *interior space* for each additional facility user.” *Interior Space* is defined in the county code as “Rooms which may be included in this calculation include areas where care activities will be conducted, including bedrooms used for sleeping, recreation rooms, food preparation areas, living rooms and family rooms. Rooms which may not be included in this calculation include closets, halls, garages and bathrooms.”

If the SUP is approved for 18 beds, the interior space required is 3,000 square feet, if the SUP is approved for up to 25 beds (after hooking up to city sewer), the interior space required is 4,050 square feet. The Safe Embrace site has 5,706 square feet of interior space, as it’s defined by the Washoe County Code. Even if only “living space” is considered, the Safe Embrace site has 4,056 square feet of living space. More than enough to house the 25 beds Safe Embrace is requesting be approved in the SUP.

Additionally, as stated above, this site has existed as a group care home/facility for almost 30 years: from 1994 to 2001 as Bridges in Consciousness; and from 2001 to present as Safe Embrace.

Thus, despite the neighbors' objections, the site is particularly well suited for a group care facility. Finally, Safe Embrace built additional facilities in reliance upon the SUP the City of Sparks granted them in 2018. The facilities are brand new and suitable for any families in need of shelter during their attempted escape from domestic violence.

While one of the commissioners denied the application for SUP based upon failure to establish this finding, his decision was in error. He had not seen the property in person and relied upon outdated pictures provided by members of the public. Another commissioner stated that he had driven the road the day of the hearing, and the Safe Embrace property did not look any different than the other properties on Ponderosa Drive. The site is suitable to the neighborhood and does not stick out like a sore thumb.

Issuance Not Detrimental (WCC 110.810.30(d)) – The issuance of the SUP 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. Again, Safe Embrace has been operating as a domestic violence shelter at this site since 2001. In the 22 years in operation, there has not been one incident in or around the shelter that was detrimental to the health, safety or welfare of the public. Indeed, at a neighborhood meeting regarding the SUP, a neighbor stated that while the neighbors of Safe Embrace are afraid for their safety from the abusers of the residents of the shelter, they are also suffering from ongoing gang activity in and around the neighborhood that has no connection to Safe Embrace whatsoever.

Issuing an SUP extending the number of beds from 10 to 18 or 25 will not be detrimental to the neighborhood in any manner. Additionally, Safe Embrace has offered to put policies and procedures into place to address the concerns of their neighbors on Ponderosa Drive. Safe Embrace offered to allow access to a staff member 24 hours a day, upgrade security, share in the cost of road maintenance, maintain its landscaping pursuant to code, etc. Additionally, the neighbors have been repeatedly informed of staff emails and the 24-hour live call number for Safe Embrace if they needed to report or discuss anything happening in the neighborhood and no calls have been received. Further, a member of the BOA stated during the hearing that no citations have been issued against Safe Embrace for the purported wrongdoings alleged by the neighbors in their public comment.

Effect on Military Installation (WCC 110.810.30(e)) – There are no military installations in the area. Therefore, there is no detrimental effect.

2. ONGOING LITIGATION

Certain neighbors of Safe Embrace initiated litigation against the City of Sparks, Washoe County and Safe Embrace in 2020. Inaccurate statements regarding the ongoing litigation were made during public comment. The litigation that specifically applies to Safe Embrace is ongoing and only concerns certain deed restrictions recorded on the lots back in approximately 1960, and whether the homeowners on Ponderosa Drive have standing to enforce these restrictions. Safe Embrace does not believe the plaintiffs in this matter have standing, but the judge has not ruled in anyone's favor, as of yet. There are currently competing motions for summary judgment pending

before the court. The issues before the court have no bearing on whether or not this SUP can be granted.

The BOA voted on approving the SUP, two voted to approve, and two to deny. As such, the SUP was denied. As stated above, one denial vote was on the basis that the commissioner found the SUP would be “detrimental,” however, said commissioner provided no explanation for this finding. The other denial vote was because the commissioner believed that site was not suitable to Safe Embrace’s business. Again, no additional explanation was provided. Despite these votes by the BOA commissioners, the application package submitted to the BOA included an extensive analysis of the SUP application and found that it met all five findings and motioned for its approval, with very little conditions. Substantial evidence was provided which supports this finding. Thus, the BOA voting against this recommendation was incorrect.

We appreciate your assistance in forwarding this appeal to the Board of County Commissioners and look forward to their consideration of Safe Embrace’s SUP application. The required appeal application and filing fee are attached. In the meantime, please do not hesitate to contact me at (775) 525-8850 or kendra@jepsenmcmenomy.com should you require any additional information. Thank you.

Sincerely,

JEPSEN & MCMENOMY, PLLC



Kendra J. Jepsen, Esq.

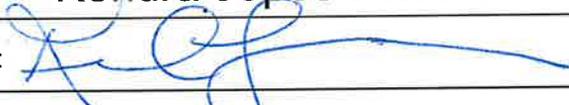
Enclosure(s): as stated.

Cc: Afshan West – Safe Embrace
Lisa Nash – Christy Corporation

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>August 17, 2023</u>	
Date of action by County: <u>August 3, 2023</u>	
Date Decision filed with Secretary: <u>August 7, 2023</u>	
Appellant Information	
Name: Safe Embrace	Phone: (775)324-3766
Address: 220 S. Rock Blvd. Suite 7	Fax:
	Email: kendra@jepsenmcmenomy.com
City: Reno State: NV Zip: 89502	Cell:
Describe your basis as a person aggrieved by the decision: Special Use Permit Applicant.	
Appealed Decision Information	
Application Number: WSUP22-0019	
Project Name: Safe Embrace Special Use Permit	
State the specific action(s) and related finding(s) you are appealing: The decision of the Board of Adjustment to deny WSUP22-0019 is being appealed to the Washoe County Board of Commissioners. The decision made by the Board of Adjustment was incorrect as the substantial evidence presented at the hearing satisfies all five findings required by WCC Section 110.810.30 in order for the Board of Adjustment to grant Safe Embrace's Special Use Permit application. Refer to attached letter for additional details.	

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: The Special Use Permit application should not have been denied as substantial evidence was presented to support the five findings made by Washoe County. The Board of Adjustment based its decision on false public comment and inapplicable county code.	
Cite the specific outcome you are requesting with this appeal: It is requested that the Board of County Commissioners overturn the Board of Adjustment's denial of WSUP22-0019 and approve Safe Embrace's Special Use Permit.	
Did you speak at the public hearing when this item was considered?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did you submit written comments prior to the action on the item being appealed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Appellant Signature	
Printed Name: Kendra Jepsen on behalf of Safe Embrace	
Signature:	
Date:	August 17, 2023