



Board of Adjustment Staff Report

Meeting Date: April 2, 2015

Subject: Variance Case Number: VA15-001
Applicant: Moraine Trust
Agenda Item Number: 8D
Project Summary: To reduce the required side yard setback from eight (8) feet to ± 3.96 feet to allow for a 240 square foot addition to the existing residence.
Recommendation: Approval with Conditions
Prepared by: Sandra Monsalvè, AICP, Senior Planner
Washoe County Community Services Department
Planning and Development Division
Phone: 775.328.3608
E-Mail: smonsalve@washoecounty.us

Description

Variance Case Number VA15-001 (Moraine Trust) – To reduce the required side yard setback from eight (8) feet to ± 3.96 feet to allow for a 240 square foot addition to the existing residence.

- Property Owner: The Moraine Trust
Attention: D.A. Griscom, Trustee
- Applicant: The Moraine Trust
- Consultant: Wayne Ford, Residential Designer
P.O. Box 4775
Incline Village, NV 89450
- Location: 453 Winding Way
Incline Village, NV 89451
- Assessor's Parcel Number: 124-042-08
- Parcel Size: 0.448 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkgigler
- Section/Township/Range: Section 16, Township 16N, Range 18E, MDM,
Washoe County, NV

Staff Report Contents

Variance Definition..... 3

Vicinity Map 4

Existing Residence 5

Proposed Addition & Setback Encroachment..... 6

Project Evaluation 7

Natural Slope Constraints 8

Odd Shaped Lot (narrow at the front)..... 8

Reviewing Agencies..... 9

Community Input/Incline Village CAB.....10

Recommendation.....12

Motion.....12

Appeal Process.....13

Exhibits Contents

Conditions of Approval..... Exhibit A

Agency Comments..... Exhibit B

Noticing Map..... Exhibit C

Variance Definition

The use and standards for a variance are set out in NRS 278.300 (1) (c), which provides that:

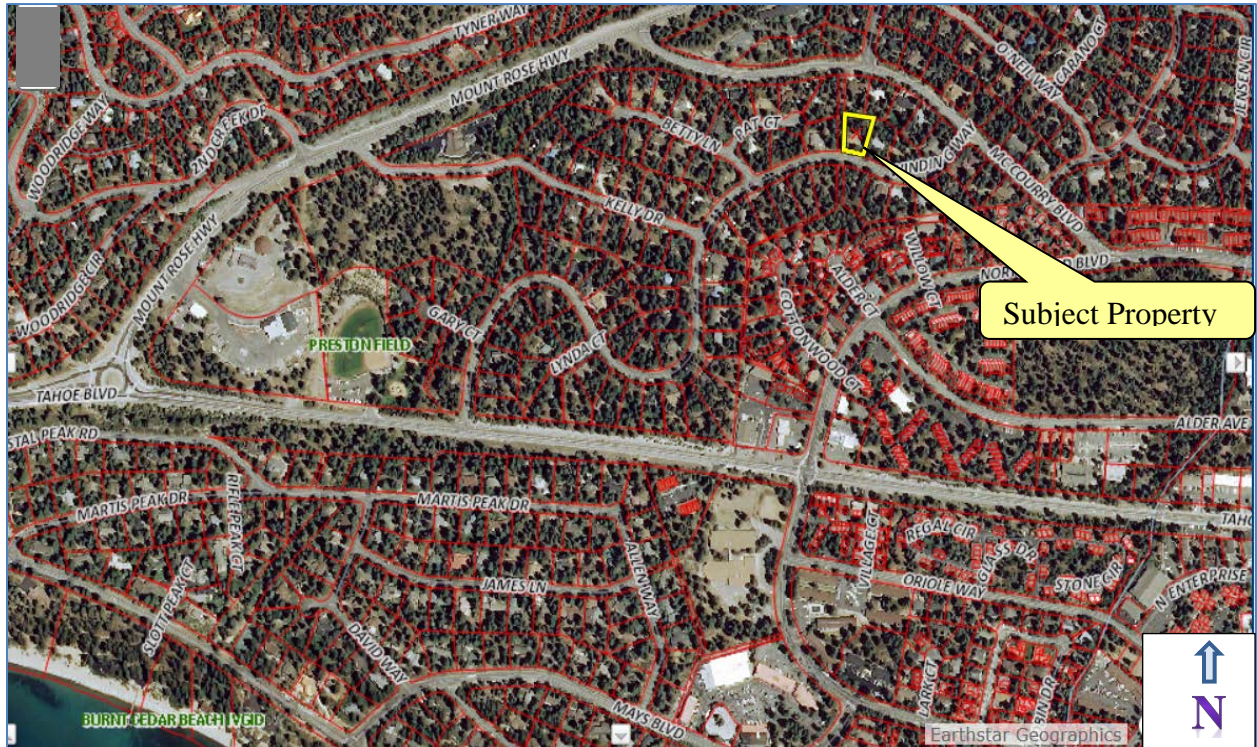
Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, the Board of Adjustment has the power to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under Washoe County Code 110.804.25, the Board must make four findings which are discussed below.

If the Board of Adjustment grants an approval of the Variance, that approval may be subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as “*Operational Conditions*”. These conditions must be continually complied with for the life of the business or project.

Vicinity Map

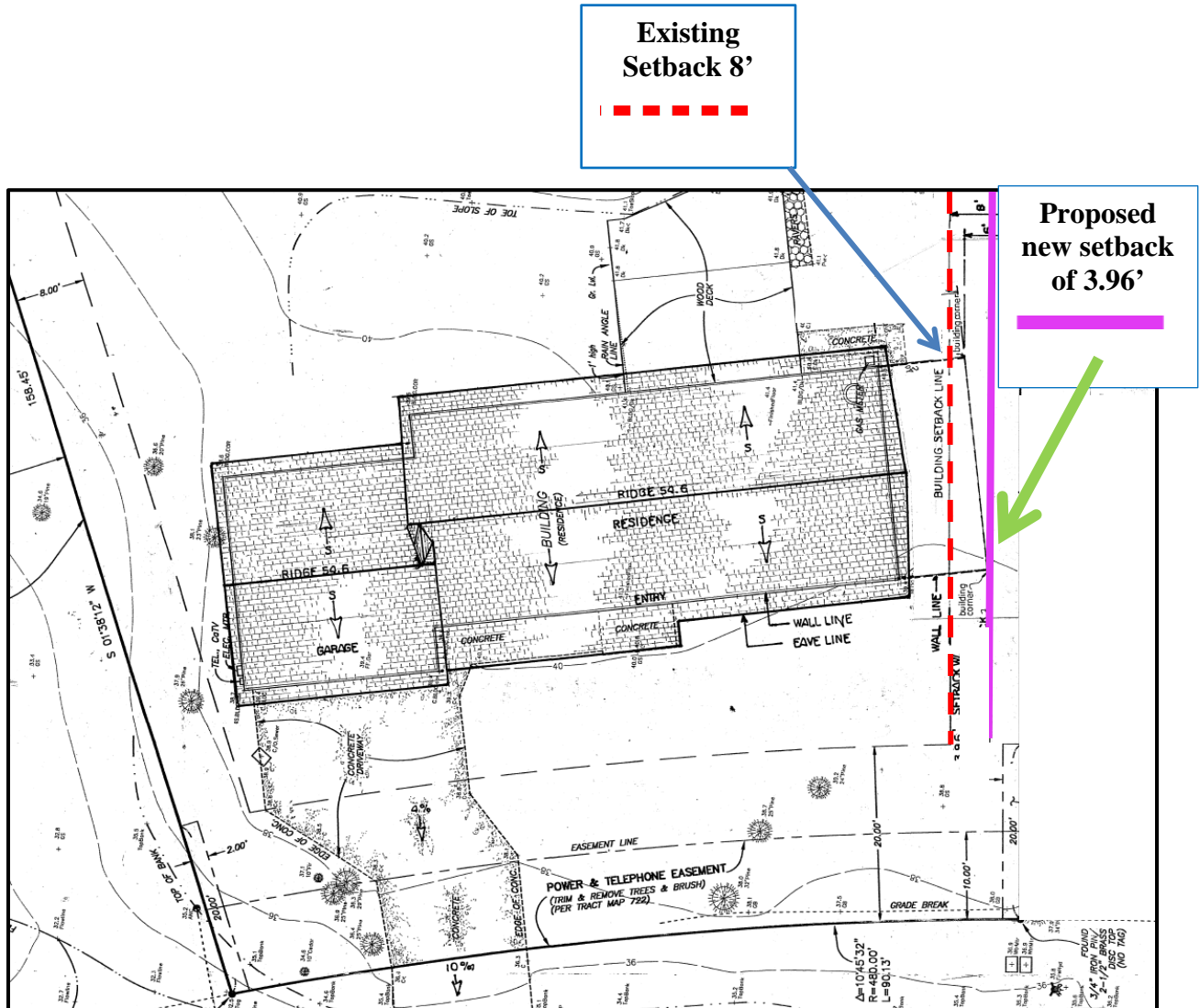


Existing Residence

(Area of side setback reduction)



Proposed Addition and Setback Encroachment



Project Evaluation

Background/History:

This is a request to vary the side yard setback within Section 110.406.05.1 of the Development Code to reduce the side yard setback from eight (8) feet to no less than ± 3.96 feet to facilitate the construction of a ± 240 square foot addition to the existing residence.

The proposed ± 240 square foot room addition will be located on the east side of the property, extending the living area into the side setback area by approximately ± 68 square feet. Because of the angled position of the home on the property, the home expansion will cause an extension of the residence into the side setback, hence the variance request.

The existing residence is $\pm 1,296$ square feet (per County Assessor's records) and was constructed in 1962 with all applicable permits. The subject property is within the Medium Density Suburban (MDS) regulatory zone, as are the adjacent properties, within the Tahoe planning area. The parcel is approximately ± 0.44 of an acre in size ($\pm 19,384$ sq/ft.), with a somewhat narrow frontage of ± 90.13 feet wide, then subsequently fans outwards as one moves towards the rear of the property.

Special Circumstances/Hardship:

Due to mature old-growth trees, large boulders, undulating slopes of 10-15% on the rear half of the property and the shape of the lot (narrow front and sides); the applicant has requested to encroach into the side setback for the home addition in order to minimize the impacts to the natural environment to the rear of the property.

Impacts:

The proposed home addition is anticipated to have minimal to no impacts to adjoining properties, in particular to the neighbors on the east side of the subject property. The applicant has spent time reviewing the proposed project with the neighbors to the east and indicated that they are in agreement with the side setback encroachment which would result from the home addition. If the applicant were to remodel the home towards the rear of the property, the impacts would be much greater, in that the neighbor's views (neighbor on the east side) and privacy would be impacted, as well as the impacts to the natural environment and runoff due to the removal of mature old-growth trees, large boulders, and grading/disturbances of natural slopes.

Staff sees no significant impacts to neighboring properties or mountain and lake views as a result of the proposed addition to the existing residence. Staff believes that the Board of Adjustment can make all mandated findings to support this variance request.

Mature Old-Growth Trees**Reviewing Agencies**

The following agencies received a copy of the project application for review and evaluation:

- Washoe County Planning and Development Division
- Washoe County Engineering and Capital Projects Division (Engineering)
- Washoe County Building & Safety
- Washoe County District Attorney, Civil Division
- Washoe County Health District
 - Environmental Health Services Division
- Incline Village General Improvement District (IVGID)
- North Lake Tahoe Fire Protection District (FPD)
- Tahoe Regional Planning Agency (TRPA)
- Incline Village/Crystal Bay Citizen Advisory Board

Three of the agencies/departments listed above responded that they had no comments/conditions for the proposed variance. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order

- Washoe County Planning and Development addressed general conditions for the proposed addition to the residence/setback encroachment.
Contact: Sandra Monsalve, 775.328.3608, smonsalve@washoecounty.us
- Washoe County Engineering and Capital Projects had no conditions.
Contact: Leo Vesely, 775.328.2040, vesely@washoecounty.us
- Incline Village General Improvement District (IVGID) had no conditions.
Contact: Tim Buxton, 775.832-1246
- District Health Department had no conditions.
James English, 775.328-2434, jenglish@washoecounty.us

Community Input/Incline Village/Crystal Bay CAB

At the time of the staff report's publication, staff had not received Citizen Advisory Board input in regard to the variance request because the Incline Village/Crystal Bay CAB does not meet until Monday, March 23, 2015, at which time the item will be discussed. Staff will bring a copy of any CAB information received after the item is discussed at the CAB, to the Board of Adjustment meeting on April 2, 2015. Staff did however receive a phone call from a member of the CAB, in addition to the neighbor at 461 Winding Way, and both were in support of the variance request.

Staff Comment on Required Findings

Section 110.804.25 of Article 804, *Variances*, within the Washoe County Development Code states "prior to approving an application for a variance, the Board of Adjustment, the Planning Commission or hearing examiner shall find that findings (a) through (d) apply to the property and, if a military installation is required to be noticed, finding (e):

- (a) Special Circumstances. Because of the special circumstances applicable to the property, including either the:
- (1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
 - (2) By reason of exceptional topographic conditions, or
 - (3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,
- the strict application of the regulation results in exceptional and undue hardships upon the owner of the property.

Staff Comment:

- *The subject property has slopes in excess of 10-15% across the rear portion of the lot;*
- *The subject parcel is encumbered with mature old-growth trees in the rear half portion of the lot;*
- *The subject parcel is encumbered with various large sized boulders in the rear of the lot.*
- *The shape of the parcel restricts expansion to the existing home due to the narrowness of the front half portion of the parcel.*

- b) No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted.

Staff Comment:

- *The variance will not create a detriment to the scenic or environmental character of the surrounding area, nor affect Lake views of adjacent properties.*
 - *The proposed residential addition will not create a significant impact, as it will be in a location where existing turf would be removed, thereby reducing water usage.*
- c) No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.

Staff Comment:

- *The granting of this variance would allow the property owner to construct an addition to the existing residence in order to provide an additional bedroom to the 1,296 square foot home.*
 - *The bedroom addition would be consistent with adjacent properties that have similar sized homes which are ± 85 to $\pm 3,000$ square feet larger.*
- d) Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

Staff Comment:

- *The residential addition is an authorized use within Article 302 of the Development Code.*
- e) Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Staff Comment:

- *N/A, there is no military installation near the subject property.*

Staff has completed the analysis of the application and has determined that the proposal has met the required findings as outline within Article 804, Variances of the Development Code.

Recommendation

After a thorough analysis and review, Variance Case Number VA15-001 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

"I move 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 Variance Case Number VA15-001 for Moraine Trust, having made all required findings in accordance with Washoe County Development Code Section 110.804.25:

1. Special Circumstances. That due to slopes greater than 10-15% across the rear portion of the property, the narrowness of the front portion of the lot, the mature old-growth trees, and encumbrance of various large sized boulders; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Appeal Process

The Board of Adjustment action will be effective 10 days after the public hearing date, unless the action is appealed to the County Commission, in which case the outcome of the appeal shall be determined by the Washoe County Commission.

Applicant/Property Owner: The Moraine Trust
Attn: D.A. Griscom, Trustee
774 Mays Blvd., #10-312
Incline Village, NV 89451

Consultant: Wayne Ford Residential Designer
PO Box 4775
Incline Village, NV 89450



Conditions of Approval

Variance Case Number VA15-001

The project approved under Variance Case Number: VA15-001 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on April 2, 2015. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable Codes.

Unless otherwise specified, all conditions related to the approval of this Variance shall be met or financial assurance must be provided to satisfy the Conditions of Approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning & Development Division.

Compliance with the Conditions of Approval related to this Variance is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the Special Use Permit may result in the initiation of revocation procedures.

Washoe County reserves the right to review and revise the Conditions of Approval related to this Variance should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, “may” is permissive and “shall” or “must” is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some “Conditions of Approval” are referred to as “Operational Conditions”. These conditions must be continually complied with for the life of the project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

Washoe County Planning and Development Division

1. The following conditions are requirements of the Planning and Development Division, which shall be responsible for determining compliance with these conditions.

Contact Name – Sandra Monsalvè, AICP, Senior Planner, 775.328.3608

- a. The applicant shall demonstrate substantial conformance to the plans approved as part of this Variance.
- b. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 1. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA;
or
 2. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by Washoe County; or
 3. For projects which do not require a TRPA permit, within one year from the date of approval by Washoe County.
- c. The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).
- d. The use of straw bales shall be prohibited during construction of the project. A filter-fabric fence or other acceptable alternative shall be utilized for erosion control.
- e. The applicant shall attach a copy of the Action Order approving this project to all administrative permit applications (including building permits) applied for as part of this Variance.

*** End of Conditions ***

Washoe County Citizen Advisory Boards CAB Member Worksheet



Citizen Advisory Board: INCLINE VILLAGE CRYSTAL BAY

Meeting Date (if applicable): MARCH 23, 2015

Topic or Project Name (include Case No. if applicable): VARIANCE CASE NUMBER
NUMBER VA15-001 (MORaine TRUST)

Please check the appropriate box:

My comments were (or) were not discussed during the meeting.

Identified issues and concerns:

AFTER LOOKING AT THE PROPERTY AND CONTACTING SANDRA
MONSALVE SENIOR PLANNER I FIND NOTHING WRONG WITH
WITH THE PLANS SUBMITTED.

Suggested alternatives and/or recommendations:

THE SENIOR PLANNER SAID IT WOULD NOT CHANGE A PRESEDENCE
ON ALLOWED SETBACK. SO THERE ARE NO RECOMMENDATIONS

Name PETE TODOROFF Date: 03/09/ 2015

(Please Print)

Signature: PETE TODOROFF

This worksheet may be used as a tool to help you take notes during the public testimony and discussion on this topic/project. Your comments during the meeting will become part of the public record through the minutes and the CAB action memorandum. Your comments, and comments from other CAB members, will and shall not collectively constitute a position of the CAB as a whole.

If you would like this worksheet forwarded to your Commissioner, please include his/her name.

Commissioner's Name: COMMISSIONER MARSHA BERKBIGLER

Use additional pages, if necessary.

Please mail, fax or email completed worksheets to: Washoe County Manager's Office
Attention: CAB Program Coordinator
Post Office Box 11130, Reno, NV 89520-0027
Fax: 775.328.2491
Email: stone@washoecounty.us



WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
Engineering and Capital Projects Division

"Dedicated to Excellence in Public Service"

1001 East 9th Street PO Box 11130 Reno, Nevada 89520 Telephone: (775) 328-2040 Fax: (775) 328-3699

INTEROFFICE MEMORANDUM

DATE: March 05, 2015
TO: Sandra Monsalve, Planning and Development Division
FROM: Leo R. Vesely, P.E., Engineering and Capitol Projects Division
SUBJECT: **VA15-001**
APN 124-042-08
MORAINE TRUST

I have reviewed the referenced variance case and have no conditions or comments.

LRV/Irv

VA15-001
EXHIBIT B



**Washoe-Storey
Conservation
District**

**Natural Resource
Conservation Service
1365 Corporate Blvd.
Reno, NV 89502**

**Tel: (775) 857-8500
ext. 131
Fax: (775) 857-8525**

Board of Supervisors:

**Bret Tyler
Chairman**

**James Shaffer
Secretary
County Appointee**

**Kevin Roukey
Treasurer**

**Tory Friedmen
Supervisor**

**Spencer Scott
Supervisor**

**OPEN
Supervisor
City Appointee**

**Sandra Monsalve, AICP, Senior Planner
Roger Pelham, MPA, Senior Planner
Chad Giesinger, AICP, Senior Planner
Grace Sannazzaro, Planner
Washoe County Community Services Department
Planning and Development Division
1001 E. Ninth St., Bldg. A
Reno, NV 89512**

**Subject: February Agency Review – Case Nos. AC15-002; SB15-001; SB14-014;
VA15-001 and VA15-002**

To whom it may concern,

Thank you for providing us the January Agency Review and the opportunity to review and provide comments. We have reviewed the subject proposed projects and we have the following comments:

Case No. AC15-002– Evans Greenhouse

The proposed project is to construct two greenhouses, Phase 1 of 4,000 sq. ft. and Phase 3 of 30,000 sq. ft. Phases 2 and 4 are not requested at this time.

1. The plans must include details on what type of BMP’s will be utilized and their placement for mitigation of soil erosion.
2. Grading Plan Drawing C-2 – We noted that the applicant has designated the limits of the 100-year flood plain, but does not have the Ordinary High Water Mark of the Truckee River delineated, nor is there any indication of whether or not there are any adjacent wetlands within the flood plain.
3. Grading Plan Drawing C-2 – We also noted that the applicant’s note that they are proposing to clear vegetation between the fence line the riverward property line. We have several concerns with this action:
 - a. The removal of vegetation will make this area more susceptible to erosion during periods of high water. We recommend the County condition the permit to maintain a native vegetation in this area and plant native willows along the bank of the river to minimize erosion.
 - b. As mentioned in comment 2 we are concerned that there could be adjacent wetland in the designated flood plain area and that if any work occurs below the Ordinary High Water Mark, permits under Section 404 of the Clean Water Act would be required from the Corps of Engineers and under Section 401 of the Clean Water Act from the Nevada Department of Environmental Protection. We suggest the County add a condition that requires the applicant to have a wetland delineation conducted to delineate the Ordinary High Water Line and any adjacent wetlands prior to any approvals being given.
4. The applicant must provide evidence that they are applying for any and all necessary permits from all state and Federal agencies, including the tribes, and that they have been issued prior to construction.

Case No. SB15-001 – Mustang Industrial Development - Special Use Permit

The proposed project is to construct a light industrial development including two buildings of 344,000 sq. ft. and 517,000 sq. ft. and associated parking and access roads and other accessory features such as storm water ponds on the 117.76 acre project site. The project will involve cut of 355,417 cu. yd. and 356,216 cu. yd. fill requiring a total of 799 cu. yd. of additional fill. Approximately 80.82 acres or 68.63% of the project site will be disturbed.

We have the following comments on this proposed project:

1. The proposed project is located within a designated FEMA Flood Zone and there is no mention of this on the entire application other than an aerial photo showing the area. There is no mention of the applicant's mitigation measures to stay out of the flood zone or prevent flooding of the facilities. Of primary concern is the potential of the proposed sanitary sewer line which traverses the length of the properties along the river's high water line back to the septic tanks and leach fields.
2. Item 10 – In response to Item 10 the applicant states that once the grading activities have been completed that all disturbed 3:1 slope be treated with 6-12" rip-rap for erosion protection. We would recommend that the County condition the permit to have these areas be stabilized with bio-engineering methods reviewed by the Natural Resources Conservation Service (NRCS).
3. Item 15 – In response to Item 15 regarding the type of seed mix to be used the applicant responded ... "A native grass and shrub mix per site specific seed mix by Comstock Seed Company will be broadcast at approx. rate of 20lbs/ac and lightly chain dragged. A tackifier will be applied at 200 lbs and the area will be hydro-mulched with Ecoaegis Fiber Matrix at the rate of 2000 lbs. /ac. We recommend the permit be conditioned to require that all seed mixes be provided to the Washoe/Storey Conservation District for coordination with the NRCS. We recommend to ensure that native species of trees shrubs and grasses are planted on the project that the County require that applicant, by Special Condition to the permit, submit their proposed planting plan to the Washoe/Storey Conservation District, who in coordination with the USDA Natural Resources Conservation Service, will review and approve the plants and seed mix to be used
4. Item 17 – In response to Item 17 regarding the review of the Revegetation plan by the Washoe /Storey Conservation District, the applicant replied ... "No, we are deferring to the expertise of Comstock Seed's local expertise."... We recommend the permit be conditioned to require the applicant to coordinate their Revegetation Plan with the Washoe/Storey Conservation District.
5. Conceptual Landscaping Plan – Drawing LC2.1 – Revegetation Notes – the drawings indicate that that ... "Revegetated areas shall be acceptable if they exhibit a minimum of 90% coverage by at least three different species within three months of planting"... The Washoe/Storey Conservation District feels that this monitoring period and success criteria are not adequate to develop a sustainable vegetative cover. We recommend that the County require monitoring for a period of three years with a 90% total cover. If this is not attained then the applicant would be required to reseed and monitor until the success criteria is made. We recommend that the applicant be required to provide a detailed irrigation plan for review. The plan should include the calculations for how much water is proposed for use to maintain the landscaping plan and is there adequate water rights for the amount calculated
6. The proposed plan drawings do not clearly show where and what type of BMPs will be installed and maintained during the grading operations. We recommend that the County require the applicant to submit a detailed grading plan and SWPP that clearly show the BMPs to be utilized during construction and during operation of the facility to minimize impacts to water quality from storm water runoff.
7. The project is also located adjacent to the Truckee River which is a jurisdictional water of the United States under Section 404 of the Clean Water Act. We recommend the applicant have a jurisdictional wetland delineation and Ordinary High Water Line determination performed and submitted to the Corps of Engineers for approval. This will allow the applicant to be ensured that his proposed project will not involve the deposition of fill or dredged material into jurisdictional waters of the United States. Should jurisdictional waters and wetlands be identified on the

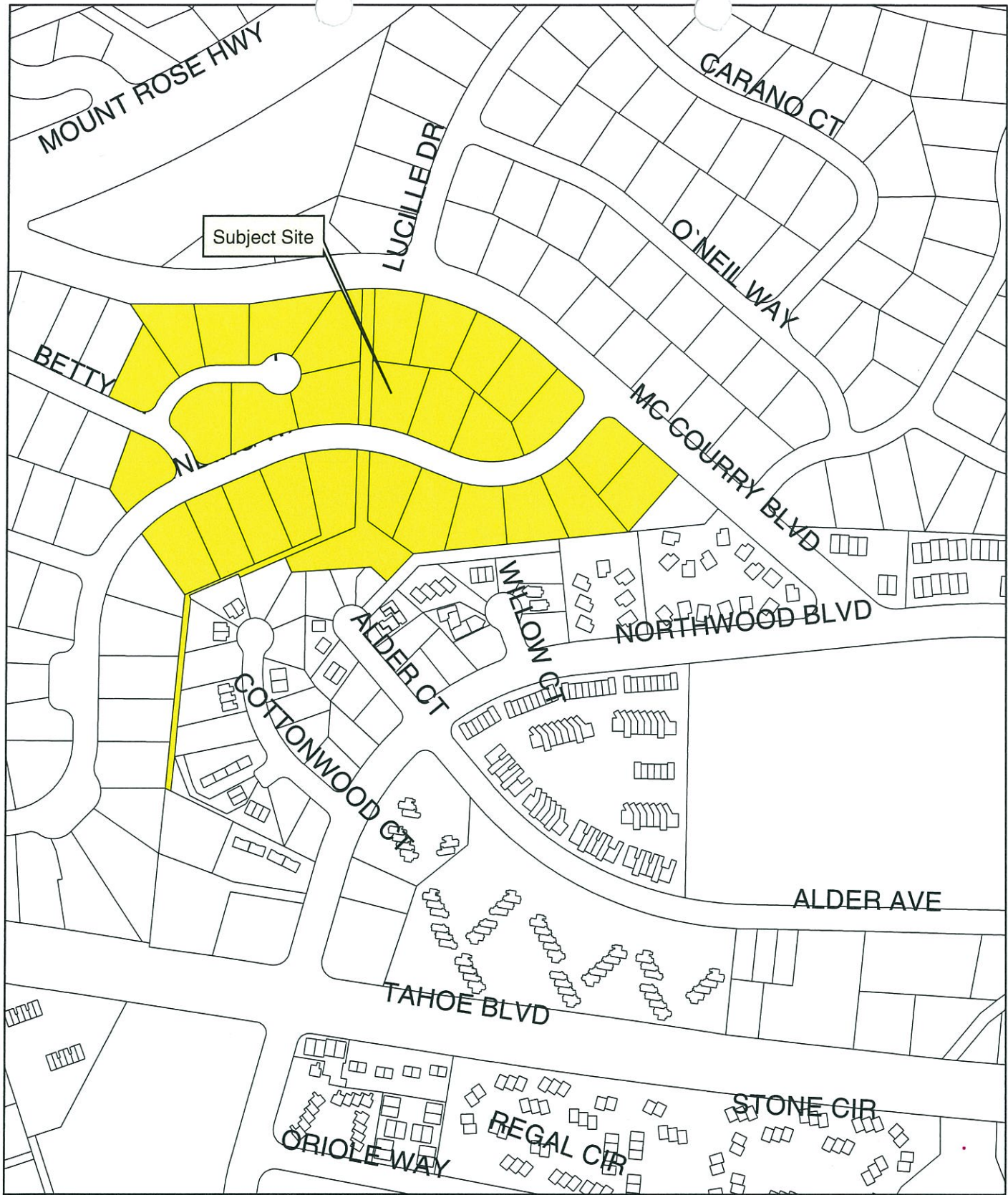
property, the applicant may be required to obtain a Department of the Army Permit unless they can avoid impacts to those areas identified.

CASE Nos. SB14-014; VA15-001 and VA15-002 – We have no comments on these actions.

These are our comments and recommendations for the subject projects. We appreciate the opportunity to provide comments and recommendations on projects that may have impacts on our natural resources. Should you have any further questions please contact Kevin J. Roukey by phone at 775-232-1571 or email kevinjr_51@att.net.

Sincerely,

Kevin J. Roukey
Washoe/Storey Conservation District



Mailing Label Map

Variance Case No. VA15-001
 453 Winding Way, Incline Village, NV



Department of
 Community
 Development

WASHOE COUNTY
 NEVADA

Post Office Box 11130
 Reno, Nevada 89520
 (775) 328-3600

VA15-001
EXHIBIT C