



Board of Adjustment Staff Report

Meeting Date: February 4, 2016

Subject: Amendment of Conditions Case Number AC15-005
for Special Use Permit Case Number SB06-017

Applicant: Encore DEC, LLC

Agenda Item Number: 8C

Summary: Amend the approval of Special Use Permit Case Number SB06-017 to allow for the outdoor construction and temporary setup of metal structures up to 40 feet tall

Recommendation: Denial

Prepared by: Trevor Lloyd - Senior Planner
Washoe County Community Services Department
Division of Planning and Development

Phone: 775.328.3620
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Description:

Amendment of Conditions Case Number AC15-005 (Encore DEC) – Hearing, discussion, and possible action to approve or deny an amendment of conditions of Special Use Permit Case Number SB06-017 to expand the approval to allow for the outdoor construction and temporary setup of metal structures up to 40 feet tall for a period of time not to exceed four months at any one time.

- Applicant: Encore DEC LLC
- Property Owner: Merit Property Management LLC
- Location: 14830 Kivett Lane
- Assessor's Parcel Number: 017-055-36
- Parcel Size: 1.312 Acres
- Master Plan Category: Commercial (C)
- Regulatory Zone: General Commercial (GC)
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 27, T18N, R20E, MDM,
Washoe County, NV

Staff Report Contents

Amendment of Conditions 3
Vicinity Map 4
Site Plan 5
Background and Evaluation of Amendment Request 7
South Truckee Meadows/Washoe Valley Citizen Advisory Board 9
Reviewing Agencies..... 9
Recommendation.....10
Motion10
Appeal Process.....10

Exhibits Contents

Public NoticeExhibit A
SB06-017 Action Order.....Exhibit B

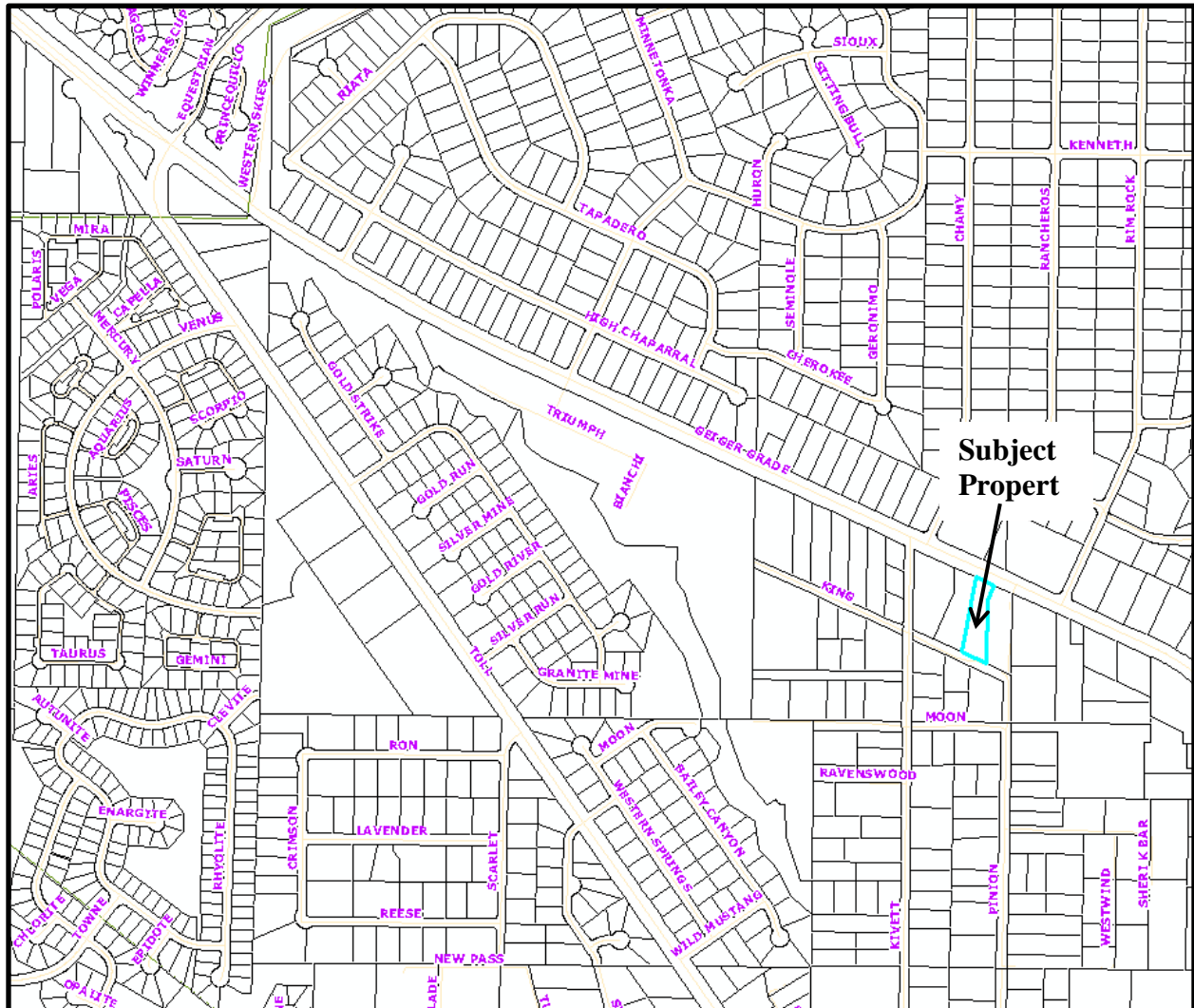
Amendment of Conditions

An Amendment of Conditions application is necessary in order to change a condition(s) of an approved discretionary permit, such as a special use permit, a variance, an abandonment of an easement or a tentative subdivision map. Some examples of why an Amendment of Conditions application is submitted are listed below:

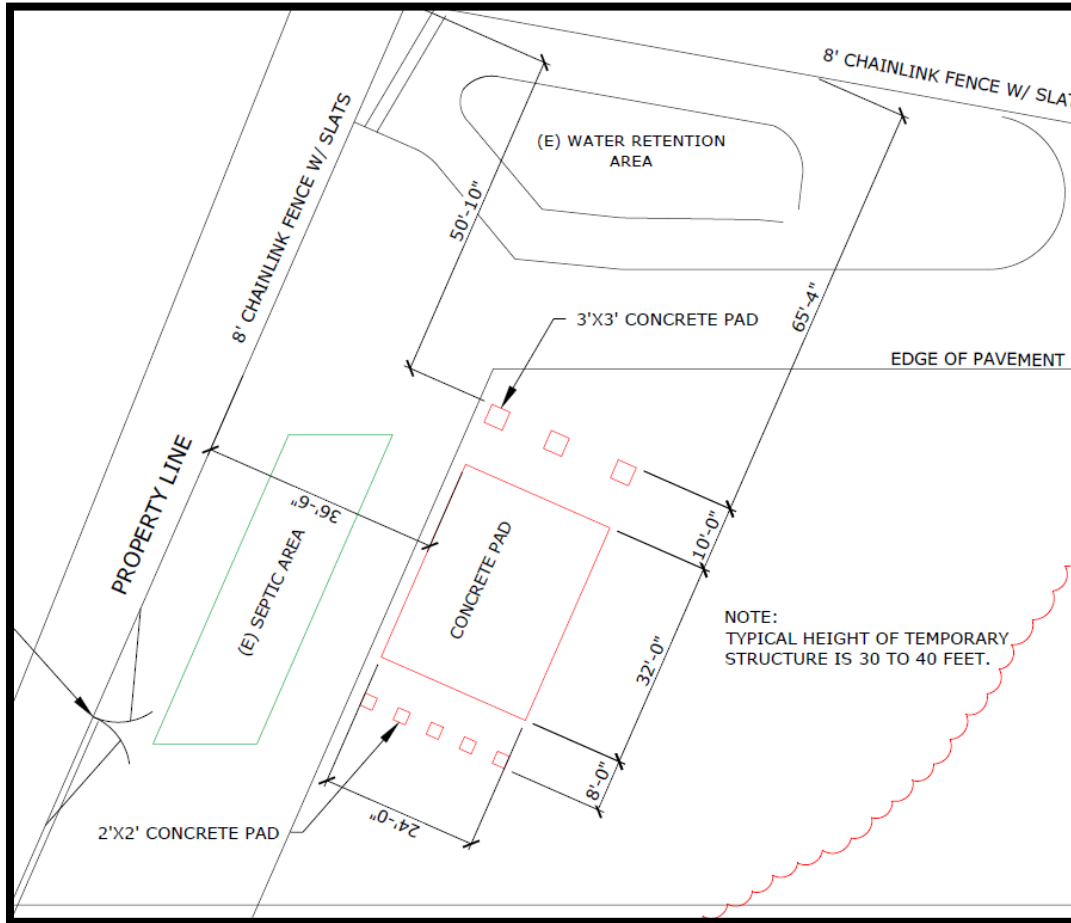
- Change in operating hours
- Physical expansion
- Extend the expiration date of the discretionary permit
- Extend the time to complete phases of the approved project

The Amendment of Conditions request is required to be heard by the same board that approved the original application and only the specific amendment may be discussed and considered for approval. The Amendment of Conditions application is processed in the same manner as the original discretionary permit application, including a public hearing, noticing, possible involvement of a citizen advisory board, agency review and analysis, and satisfying the required findings. If the Board of Adjustment grants an approval of the Amendment of Conditions request, an amended Action Order is created along with amended conditions of approval.

The Conditions of Approval for Amendment of Conditions Case Number AC15-005 is attached to this staff report and will be included with the amended Action Order if the application is approved by the Board of Adjustment.



Vicinity Map



Site Plan (Expanded View)



Background and Evaluation of Amendment Request

The applicants are asking to expand their current operation to include the outdoor fabrication of large metal platform structures. These structures will be assembled to the rear of the subject property which is currently being used as an administrative office building with outdoor storage area for an electrical contractor which was previously approved under Special Use Permit Case Number SB06-017. The purpose of the amendment of conditions request is to expand the use of the facility to include the addition of outdoor metal fabrication which staff has defined as a High Technology Industry use which is allowed with a special use permit in the General Commercial regulatory zone.

The application to amend the special use permit is needed to bring an existing code violation into compliance and legalize the use of the property for this operation. The applicant has already constructed two such metal structures on the property; the most recent structure was recently completed and shipped off site. The applicant was notified by code compliance staff that the construction activity violated the approved special use permit and was not allowed pursuant to the regulatory zoning on the property.

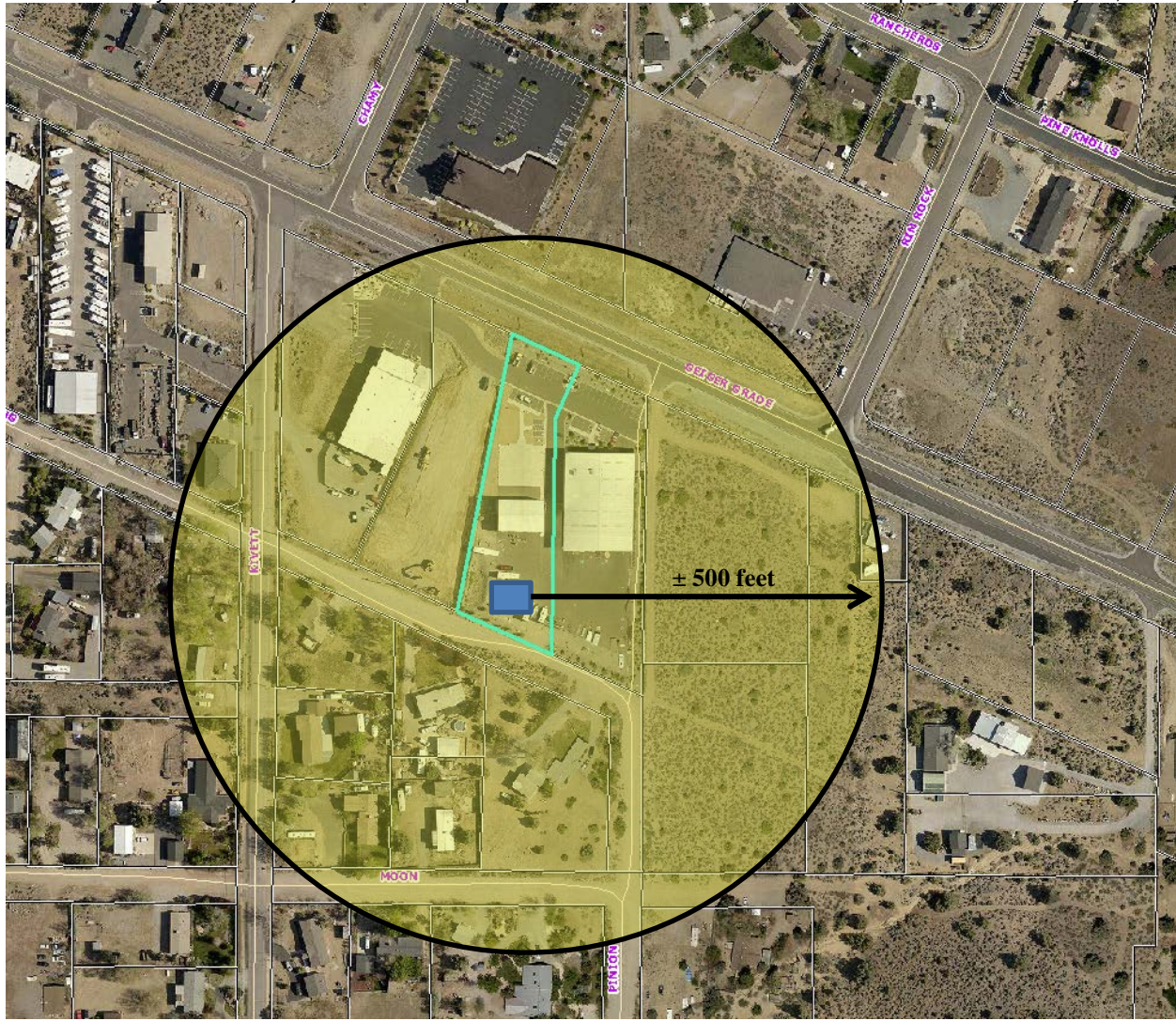
Staff is recommending denial of the proposed request due to the resulting detrimental impacts to the surrounding neighbors and the inconsistency of the use with the goals and policies of the Southeast Truckee Meadows Area Plan. The subject property has a regulatory zone of General Commercial (GC) and the fabrication of large metal structures is an industrial use type which is not compatible with the residential uses to the east and south of the site. Although the primary use on the property is commercial, the industrial component is not consistent with Washoe County Master Plan, specifically policy SETM.2.11 of the Southeast Truckee Meadows Area Plan which states "No new industrial uses will be located in the SETM planning area."

The noises and visual impact resulting from an outdoor metal fabrication operation create an incompatible situation with the immediately adjoining residential uses to the east and south. As identified in the overhead photo below, there are seven existing homes within 500 feet of where the proposed fabrication would take place. Additionally, there are at least two homes within 200 feet of the project site. Staff is unable to ascertain appropriate conditions that would fully mitigate such impacts to the residential neighbors.

The subject property is located within the Toll Road Character Management Area of the Southeast Truckee Meadows Area Plan. According to the Character Statement for the Southeast Truckee Meadows:

"The Toll Road community is a low-density suburban residential community, with a more rural atmosphere than the neighboring Virginia Foothills area. The area is a combination of older homes, newer subdivisions and manufactured home subdivisions located on the western edge of the area. The roadways in the Toll Road community are both paved and un-paved some with curb and gutter and most with V ditches. There is only a small amount of neighborhood serving commercial centered along SR 341 and at the intersection of Toll Road and SR 341. Due to the close proximity of new commercial development in the City of Reno, the residents believe that there is no need for further commercial or industrial land use in the in the Toll Road area."

The subject property is identified within the Southeast Truckee Meadows Area Plan as a "neighborhood serving commercial center", it does not promote heavy industrial/commercial type uses as proposed with this request. Additionally, the proposed outdoor metal fabrication use is not in keeping with the rural atmosphere as described in the character statement above.



Properties within 500 feet of the Proposed Use

REQUIRED FINDINGS

Findings required by WCC Section 110. 810.30 for a Special Use Permit:

1. Consistency. *That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southeast Truckee Meadows Area Plan;*

Staff Comment: Staff has reviewed the Master Plan and the Southeast Truckee Meadows Area Plan and has identified several provisions that are not consistent with the proposed project. Specifically, the character statement for the Toll Road Community in the Southeast Truckee Meadows envisions; a low-density suburban residential community, with a rural atmosphere. It also specifies that the residents believe that there is no need for further commercial or industrial land use in the Toll Road area. The use as proposed seems to be in conflict with the general flavor of the area as described in the character statement of the Toll Road Character Management Area. Additionally, the proposed use is not consistent with Washoe County Master Plan, specifically policy SETM.2.11 of the Southeast Truckee Meadows Area Plan which states “No new industrial uses will be located in the SETM planning area.”

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 of the Development Code;*

Staff Comment: There are adequate utilities, roadways, etc. for the proposed metal fabrication use. The proposed request is in compliance with Division Seven.

3. Site Suitability. *That the site is not physically suitable for the intensity of such a development;*

Staff Comment: The property is located in an area of the Southeast Truckee Meadows that has commercial and suburban residential uses. The Area Plan calls for neighborhood serving commercial uses and explicitly discourages more intense commercial and industrial use types.

4. Issuance 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.*

Staff Comment: The proposed use is industrial in nature and not in keeping with the residential and commercial uses immediately abutting the subject site. There are seven existing homes within 500 feet of the proposed use and the nearest home is less than 150 feet from where the metal fabrication will take place. Outdoor metal fabrication is typically noisy and a 40 foot tall metal industrial structure is not compatible with the neighboring residential uses.

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.*

Staff Comment: There are no military installations within close proximity to the subject property.

South Truckee Meadows/Washoe Valley Citizen Advisory Board (STM/WV CAB)

The amendment of conditions request was presented by the applicant(s) at the regularly scheduled STM/WV Citizen Advisory Board meeting on January 14, 2016. The CAB had no specific comments and recommended approval of the request.

Reviewing Agencies

The following agencies received a copy of the Amendment of Conditions Application for review and evaluation.

- Washoe County Community Services Department
 - Planning and Development Division
 - Engineering and Capitol Projects Division
 - Building and Safety Division
- Washoe County District Health
 - Environmental Health Services Division
 - Mosquito/Vector Control
- Truckee Meadows Fire Protection District
- Washoe-Storey Conservation District

None of the above listed agencies/departments provided comments and/or recommended conditions in response to their evaluation of the Amendment of Conditions application.

Recommendation

After a thorough review and analysis, Amendment of Conditions Case Number AC15-005 is being recommended for denial. Staff offers the following motion for the Board's consideration.

Motion

I move that, after giving reasoned consideration to the information contained within the staff report and the information received during the public hearing, the Washoe County Board of Adjustment deny Amendment of Conditions Case Number AC15-005 for Encore DEC, LLC, not having satisfied all five findings in accordance with Washoe County Development Code Section 110.810.30 Special Use Permits.

1. Consistency. That the proposed use is not consistent with the action programs, policies, standards and maps of the Master Plan and the Southeast Truckee Meadows Area Plan.
2. Site Suitability. That the site is not physically suitable for the intensity of such a development.
3. Issuance Detrimental. That issuance of the permit will 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.

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant, unless the action is appealed to the Washoe County Board of Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of Commissioners. Any appeal must be filed in writing with the Planning and Development Division within 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

xc: Applicant/Owner: Merit Property Management LLC
Attn: Mike Burgess
14830 Kivett Lane
Reno, NV 89521

OFFICIAL NOTICE OF PUBLIC HEARING

DATE: January 22, 2016

You are hereby notified that the **Washoe County Board of Adjustment** will conduct a public hearing at the following time and location:

1:30 p.m., Thursday, February 4, 2016
County Commission Chambers, 1001 East Ninth Street, Reno, NV 89512

PUBLIC HEARING: Amendment of Conditions Case Number AC15-005 (Encore DEC) – Hearing, discussion, and possible action to approve or deny an amendment of conditions of Special Use Permit Case Number SB06-017 to expand the approval to allow for the outdoor construction and temporary setup of metal structures up to 40 feet tall for a period of time not to exceed four months at any one time.

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Washoe County, NV

- Staff: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division

- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

As an owner of property in the vicinity, you are invited to present testimony relative to these matters.

To access additional information about this item, please visit our website at www.washoecounty.us/csd/planning_and_development/, choose **Boards and Commissions**, then **Board of Adjustment, Meetings, +2016**. Then click on the above referenced meeting date.



Community Development

"Dedicated to Excellence in Public Service"

Adrian P. Freund, AICP, Community Development Director
Blaine Cartledge, Legal Counsel



Washoe County Board of Adjustment
Sharon Stanley, Chair
Richard "R.J." Cieri, Vice Chair

Neal Cobb
Gary Feero
Philip Horan

ACTION ORDER

December 8, 2006

Encore Energy
16640 Wedge Parkway
Reno, NV 89511

Steven Sederquist
539 Riverside Drive
Reno, NV 89503

Dear Applicant and Property Owner:

The Washoe County Board of Adjustment, at its regular meeting of December 7, 2006, approved the following request with thirty-one (31) conditions.

SPECIAL USE PERMIT CASE NO. SB06-017 (MERIT ELECTRIC) – To allow for the construction of a 12,000-square-foot building to be partitioned off into a 2,956-square-foot administrative office and a 9,044-square-foot workshop with outdoor storage space for an electrical contractor. The project is located on the south side of Geiger Grade, approximately one (1) mile east of the Toll Road/Geiger Grade intersection. The ±1.18-acre parcel is designated General Commercial (GC) in the Southeast Truckee Meadows Area Plan, and is situated in a portion of Section 27 T18N, R20E, MDM, Washoe County, Nevada. The property is located in the Galena-Steamboat Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN: 017-055-34)

The approval was based on the following findings:

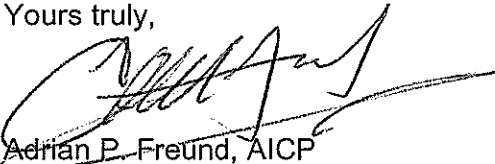
1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the Southeast Truckee Meadows Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities 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;

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 2

3. Site Suitability. That the site is physically suitable for a construction sales and services facility for an electrical contractor with storage space for materials and incidentals;
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; and
5. Reasoned Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

If no appeals have been filed in the time period stipulated in the Washoe County Development Code, the decision by the Board of Adjustment is final.

Yours truly,



Adrian P. Freund, AICP
Director, Washoe County Community Development
APF/SM/cm(SB06-017F1)

Attachments: Conditions

xc: Gray and Associates, Attn: Kerry Cates, 130 Vine Street, Reno, NV 89503

Blaine Cartlidge, District Attorney's Office; Marge Clausen, Assessor's Office (CAAS); Theresa Wilkins, Chief Appraiser, Assessor's Office; David Lindsey, Department of Water Resources; Reno Fire Department, Daniel Birkel; Engineering Division; Galena/Steamboat Citizen Advisory Board, Chair

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 3

**CONDITIONS OF APPROVAL FOR
SPECIAL USE PERMIT CASE NO. SB06-017
MERIT ELECTRIC
(APPROVED BY THE WASHOE COUNTY BOARD OF ADJUSTMENT ON DECEMBER 7, 2006)**

*****IMPORTANT—PLEASE READ*****

UNLESS OTHERWISE SPECIFIED, ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO SUBMITTAL FOR A 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 ASSURANCES.

ALL AGREEMENTS, EASEMENTS, OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE COUNTY ENGINEER AND THE DEPARTMENT OF COMMUNITY DEVELOPMENT.

COMPLIANCE WITH THE CONDITIONS OF THIS SPECIAL USE PERMIT IS THE RESPONSIBILITY OF THE APPLICANT, HIS SUCCESSOR IN INTEREST, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE SPECIAL USE PERMIT MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ANY OPERATIONS CONDITIONS ARE SUBJECT TO REVIEW BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT PRIOR TO THE RENEWAL OF A BUSINESS LICENSE EACH YEAR. FAILURE TO ADHERE TO THE CONDITIONS MAY RESULT IN WITHHOLDING RENEWAL OF THE BUSINESS LICENSE UNTIL CONDITIONS ARE COMPLIED WITH TO THE SATISFACTION OF THE DEPARTMENT OF COMMUNITY DEVELOPMENT.

WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

FOR THE PURPOSES OF CONDITIONS IMPOSED BY WASHOE COUNTY, "MAY" IS PERMISSIVE AND "SHALL" OR "MUST" IS MANDATORY.

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 4

GENERAL CONDITIONS

1. The applicant shall demonstrate substantial conformance to the plans approved as part of this special use permit. The Department of Community Development shall determine compliance with this condition.
2. The applicant shall obtain and maintain a valid building permit for the construction of the Office building within three (3) years from the date of approval by Washoe County Board of Adjustment. The Department of Community Development shall determine compliance with this condition.
3. A copy of the Final Action Order stating conditional approval of this special use permit shall be attached to all applications for administrative permits issued by Washoe County.
4. The applicant and any successors shall direct any potential purchaser/operator of the site and/or the special use permit to meet with the Department of Community Development to review conditions of approval prior to the final sale of the site and/or the special use permit. Any subsequent purchaser/operator of the site and/or the special use permit shall notify the Department of Community Development of the name, address, telephone number, and contact person of the new purchaser/operator within 30 days of the final sale.
5. A note shall be placed on all construction drawings and grading plans stating:

NOTE

Should any prehistoric or historic remains/artifacts be discovered during site development, work shall temporarily be halted at the specific site and the State Historic Preservation Office of the Department of Museums, Library and Arts, shall be notified to record and photograph the site. The period of temporary delay shall be limited to a maximum of two (2) working days from the date of notification.

6. A complete set of construction improvement drawings, including an on-site grading plan, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMPs) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be controlled on-site by BMPs. The Engineering Division shall determine compliance with this condition.
7. For construction areas larger than one acre, the developer shall obtain from the Nevada Division of Environmental Protection a Stormwater Discharge Permit or Waiver for construction and submit a copy to the Engineering Division prior to issuance of a grading permit. The Engineering Division shall determine compliance with this condition.
8. The developer shall complete and submit the Construction Permit Submittal Checklist, the Performance Standards Compliance Checklist, and the Construction Stormwater Inspection Fee, prior to obtaining a grading permit. The County Engineer shall determine compliance with this condition.

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 5

9. A detailed traffic report shall be prepared by a registered engineer and shall address driveway access, delivery, and fire truck turning patterns and movements. The County Engineer shall be responsible for determining compliance with this condition and the traffic improvements that are required. The Engineering Division shall determine compliance with this condition.
10. All paving and driveway improvements necessary to serve the project shall be designed and constructed to County standards and specifications. Driveway approach shall have a 36-foot minimum width at the property line. The Engineering Division shall determine compliance with this condition.
11. Provide documentation of access to the site to the satisfaction of the County Engineer.
12. An approved occupancy permit shall be obtained from the Nevada Department of Transportation (NDOT), for drainage and access to, from, or under highways maintained by NDOT, and a copy of said permit sent to the Engineering Division. The Engineering Division shall determine compliance with this condition.
13. The minimum pavement requirements for on-site paving shall be three inches (3") asphalt over six inches (6") granular base.
14. A detailed hydrology/hydraulic report prepared by a registered engineer shall be submitted to the Engineering Division for review and approval. The report shall include the locations, points of entry and discharge, flow rates and flood limits of all 5- and 100-year storm flows impacting both the site and offsite areas and the methods for handling those flows. The report shall include all storm drain pipe and ditch sizing calculations and a discussion of and mitigation measures for any impacts on existing offsite drainage facilities and properties. The Engineering Division shall determine compliance with this condition.
15. Any increase in storm water runoff resulting from the development and based upon the 5-year storm shall be detained on site to the satisfaction of the County Engineer. The Engineering Division shall determine compliance with this condition.
16. The developer shall provide pretreatment for petrochemicals and silt for all storm drainage from the site to the satisfaction of the County Engineer. The Engineering Division shall determine compliance with this condition.
17. The applicant shall be sure that the access onto Kivett Lane provides adequate truck turning in and out. The Washoe County Traffic Engineer shall determine compliance with this condition.

DEPARTMENT OF WATER RESOURCES

18. The applicant shall dedicate necessary water rights prior to release of building permit. The dedication of water rights shall be in accordance with Article 422 and STMGID policies. Water rights must be in good standing with the State of Nevada division of Water Resources, and the point of diversion, place and manner of use must be acceptable to the Department of Water Resources (DWR). The DWR shall determine compliance with this condition.

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 6

19. Improvement plans shall be in compliance with Washoe County Design Standards. A Professional Engineer licensed to practice in the State of Nevada must design the improvement drawings. The DWR shall determine compliance with this condition.
20. In accordance with the applicable ordinances, all fees shall be paid prior to release of building permit. The DWR shall determine compliance with this condition.
21. Any well on the property not in use for production or monitoring purposes shall be properly abandoned in accordance with state regulations governing Water Wells and Related Drilling. The DWR shall determine compliance with this condition.
22. Add note on building permit that states, "When municipal sewer becomes available, the lot owner will be required to connect within 60 days of notification and pay sewer connection fees applicable per ordinances in effect at the time of connection." The DWR shall determine compliance with this condition.

OPERATIONAL CONDITIONS/COMMUNITY DEVELOPMENT

23. The hours of operation shall be limited to 6:00 a.m. to 7:00 p.m., Monday through Saturday, and Sunday by appointment only. If more than three complaints are received within one year of the issuance of the Certificate of Occupancy, then the applicant shall return to the Board of Adjustment for further review of the hours of operation. The Department of Community Development shall determine compliance with this condition.
24. The office building and any other ancillary structures shall match in architectural design, to include similar colors and building materials. The Department of Community Development shall determine compliance with this condition.
25. The applicant shall park all vehicles used for this business within the confines of the property, behind the fence, screened from view from all property lines. The Department of Community Development shall determine compliance with this condition.
26. Any deliveries of electrical goods or the like shall not take place during the early morning hours and shall occur after 8:00 a.m., but prior to 6:00 p.m., Monday through Saturday only. The Department of Community Development shall determine compliance with this condition.
27. Any ready-mixed concrete work that needs to be done on site shall not take place between the hours of 9:00 p.m. through 7:00 a.m. The Department of Community Development shall determine compliance with this condition.

LANDSCAPING AND DESIGN REVIEW COMMITTEE

28. Prior to any ground disturbing activity, the applicant shall submit a landscaping/architectural design plan to the Department of Community Development for review and approval by the Design Review Committee. Said plan shall address, but not be limited to, type and color of building materials, general architectural design, signage, exterior lighting, fencing, trash enclosures, landscaping material (if plant material: type, size at time of planting, maturation size at full growth, period of time between planting

Letter to: Encore Energy / Steven Sederquist
Subject: Special Use Permit Case No. SB06-017
Date: December 8, 2006
Page: 7

and full growth), landscaping location, landscaping irrigation system, and financial assurances that landscaping will be planted and maintained.

29. A certification letter or series of letters by a landscape architect registered in the State of Nevada shall be submitted to the Department of Community Development. The letter(s) shall certify that all applicable landscaping provisions of Articles 408, 410 and 412 of the Development Code have been met. The landscaping plans and the letter shall be wet-stamped. The letter shall indicate any provisions of the code that the Director of Community Development has waived.
30. All required landscaping shall be maintained in accordance with the provisions found in Section 110.412.75, Maintenance. A three-year maintenance plan shall be submitted by a licensed landscape architect registered in the State of Nevada to the Department of Community Development, within 12 months of the approval of this special use permit. The plan shall be wet-stamped.
31. The applicant shall install a solid concrete block wall or similar material in order to mitigate impacts to the existing residence to the south and residential zoning to the east. The block wall shall be a minimum of six (6) feet, but not exceed eight (8) feet in height. The Department of Community Development shall determine compliance with this condition.

***** END OF CONDITIONS *****