



WASHOE COUNTY BOARD OF ADJUSTMENT **DRAFT** Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Rob Pierce, Vice Chair
Don Christensen
Kathie Julian
Brad Stanley

Thursday, January 5, 2023

1:30 p.m.

Washoe County Administrative Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

Secretary

Trevor Lloyd

and available via
Zoom Webinar

1. Determination of Quorum

Chair Thomas called the meeting to order at 1:30 p.m.

The following members and Staff were present:

Members Present: Clay Thomas, Chair
Rob Pierce, Vice-Chair
Don Christensen
Kathie Julian (via zoom)
Brad Stanley

Members Absent: None

Staff Present: Courtney Weiche, Senior Planner, Planning and Building Division
Julee Olander, Planner, Planning and Building Division
Kat Oakley, Planner, Planning and Building Division
Mitch Markey, Planner, Planning and Building Division
Michael Large, Deputy District Attorney, District Attorney's Office
Adriana Albarran, Recording Secretary, Planning and Building Division
Brandon Roman, Recording Secretary, Planning and Building Division

2. Pledge of Allegiance

Chair Thomas led the pledge of allegiance.

3. Ethics Law Announcement

Deputy District Attorney Large recited the Ethics Law standards.

4. Appeal Procedure

Secretary Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. Public comment

There was no response to the request for public comment.

6. Approval of the January 5, 2023 Agenda

In accordance with the Open Meeting Law, Member Pierce moved to approve the agenda of January 5, 2023, Member Stanley seconded the motion which carried unanimously.

7. Approval of the December 1, 2022 Draft Minutes

Member Stanley moved to approve the minutes of December 1, 2022, as written. Member Pierce seconded the motion which carried unanimously.

8. Public Hearing Items

A. Administrative Permit Case Number WADMIN22-0025 (Ormat Geothermal Exploration)

- For hearing, discussion, and possible action to approve an administrative permit for the construction and drilling of up to 13 geothermal test wells. The construction will involve improvements and grading of an access road and the grading of up to 13 well pads that are 2.1 acres. The project will have a maximum potential of 32 acres of ground disturbance including the access road improvements.

- Applicant: ORNI 26, LLC
- Property Owner: United States of America – Bureau of Land Management
- Location: 0 State Route 447 & 0 State Route 34
- APN (Parcel Size (acres)): 071-150-09 (28,166), 071-220-18 (168.8), 071-220-19 (36.3), 071-220-23 (98.0)
- Master Plan: Rural
- Regulatory Zone: General Rural (GR)
- Area Plan: High Desert
- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 5 – Commissioner Herman
- Staff: Mitch Markey, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.2722
- Email: mmarkey@washoecounty.gov

Planner Markey provided a presentation. Applicant representatives, Stacie Huggins provided a presentation, she and Erica Freese, were in Chambers and available for questions.

Questions for Staff/Applicant:

Member Stanley complimented Planner Markey's staff report and said it made the difficult and complex situation pretty easy for the members to understand. He also said he appreciated Planner Markey's response to the emails and phone calls. Member Stanley just wanted to pursue the one issue about wildlife oversight. He was concerned about it, but Planner Markey had mentioned additional conditioning or decisions would be made later in the process. Member Stanley also noted there were no conditions that were particularly appropriate in the current report and that BLM thought that noise and activity would tend to keep the wildlife further away than normal. Planner Markey said BLM's analysis concerning wildlife issues included specifically migratory animals such as bighorn sheep, pronghorn, and mule deer. The BLM stated in their EA that due to lambing season for bighorn sheep, which coincides with cattle and sheep trailing season, combined with the noise of construction activities and the general traffic on State Route

447 and 34, this has a similar effect to keeping the wildlife out of that project area. BLM essentially said, the disturbance is already there. The addition of construction activities related to the drilling of these 12 test wells doesn't exceed the existing disturbance due to already existing activities.

Member Pierce asked if the project would affect Burning Man in any way. Planner Markey said not to his knowledge. The representatives of Burning Man were heavily involved in the EA process and made significant comments related to it. Regarding the actual festival and that activity, he didn't believe there would be any impact aside from some of the lighting issues from the Black Rock Desert. It might be possible to see the lighting of a drill rig off the horizon.

Member Christensen said this Board understands that this is an administrative permit and exploratory function of Ormat operation. Ultimately, if this proved to be satisfactory, what would be the nature of the more permanent installation, he asked Planner Markey. Planner Markey said he'd let the consultants speak to that more but believed if they are going to utilize the site for geothermal production, they'd have to come back to the County for an additional permit. Another environmental analysis would also have to be done to install permanent geothermal production facilities. Member Christensen said he thought the Board was concerned with the ultimate use of this geothermal product.

Member Julian asked how many lights were on the pads and were the lights operational only when that particular pad was drilling, or were other lights on continuously on other pads? Planner Markey said the lights alone would be on the pad undergoing construction and drilling. In terms of the number of lights, he did not know. He deferred to the consultants for that question. Member Julian said it'd be interesting to know the number of lights per pad.

Member Julian had a second query on the condition regarding the wildlife. She said it could be made clearer that the seasonal timing applies to construction and drilling operations. It sounds like everything is construction, but she was having some difficulty differentiating between construction, putting the rig in place, and then the operation of the test drill. She thought it would be helpful to make that very clear in the conditions that it applies to both construction and test operation. Planner Markey responded additional language could be added to cover the drilling of the test well.

Stacey Huggins, the Applicant Representative, provided a presentation.

Member Stanley asked what the projected output of these wells was in terms of kilowatt hours or how one might measure it. Secondly, what would be the depths of these wells?

Ms. Huggins said currently, they don't have an answer to the projected output of the wells but do know the wells will be 1700 to 7500 maximum depths.

Chair Thomas said each well site would require about 35,000 gallons of water and under 6,000 gallons for the road, which is equivalent to about 41,000 gallons per day. Was each site going to be drilled for water also? Or is there going to be one location that is going to be drilled for water and transported to the other pads? Ms. Huggins said her understanding is that the water will be provided by the GID out to the pads. Erica Freese said the plan is to purchase water from the Gerlach Irrigation District. They do not intend to drill water wells for their own drilling purposes at this time. Chair Thomas asked if tanker trucks would be used. Ms. Freese confirmed.

Member Christiansen asked what the ultimate use of the geothermal product was. Ms. Freese said they would use a binary system that utilizes the geothermal fluid in a closed loop system. So, there would be no steam or flashing of the water. Ultimately, the intent is for power generation, if we find a commercially viable resource.

Member Stanley said obviously, financial analysis has been done, but what was the estimation of max power output that was anticipated? To follow up on Member Christiansen's question, was this for local power to the local grid?

Ms. Freese said to answer the first question on the megawatt output from a potential geothermal facility, they don't have that answer right now because they still need to do the exploration to figure out what the resource will provide. And the answer to the second question is to potentially where that energy would go if we were to produce it; it would likely go to the local grid to NV Energy to serve their customers.

Member Pierce asked if Ms. Huggins had an objection to condition number seven. The Department of Wildlife is explicitly requesting the condition. Was there some way to work around this? What did her team suggest?

Ms. Freese said they have been through the process with BLM and NDOW as a cooperating agency during the environmental analysis of the projects. And the federal agency did not see that our potential impacts from drilling would impact wildlife in a way that would require additional mitigation beyond our committed measures. So, for instance, that's like a rock muffler on the drilling rig to reduce the noise from venting. She had a conversation with NDOW about this condition, and they don't have specifics on decibel levels or distance that they can provide. Their opinion is that there might be impacts to the lambing bighorn sheep. But they can't provide the decibel level that would actually do that or how close or far the project would need to be away from them. Ms. Freese didn't have much to go on other than looking at the habitat map, the project and the drilling sites are outside of the bighorn sheep habitat. The project is not within the habitat that is mapped by NDOW.

Member Pierce asked if this was a make it or break it on this decision? Ms. Freese said it makes it very difficult for her team. In addition to this blackout period, which is about six weeks, they also have restrictions imposed on them from Fish and Wildlife due to proximity to the Golden Eagle nesting habitat that runs from December 15 to April 15, as long as there are no occupied nests. So that leaves about a five-month window to construct about one well.

Member Pierce said the condition put the Board in a tough situation. Planner Markey said he didn't have more to add. It is technically true that these wells are outside of the habitat. But sound does travel across boundaries in habitat lines. He thought that was something to keep in mind. Ultimately this condition is up to the Board's discretion. The high desert area plan has a policy that requires Staff to reach out to NDOW and consider wildlife habitats when making these decisions. So, this is the condition they provided and was brought to the Board. Member Pierce asked from a planning standpoint if this was removed, would this create a hardship or any kind of issues from their standpoint? Planner Markey said he's not a wildlife biologist, so he didn't want to speak on their end. From the planning standpoint, the use is permitted in that area for general rural. And so, from a strictly planning perspective and zoning perspective and the use, that's permitted via admin permit, and so planning wouldn't have any issues. But again, he couldn't speak for the wildlife biologist.

Member Stanley said he wanted more opportunities for NDOW to have input than what was currently there. He said Staff had mentioned that they were not properly staffed to do the kind of policing that might be required, but an adequate amount. He also understood that NDOW was in touch with the BLM federal agency and discussed this condition? Planner Markey said his understanding was that NDOW did approach the BLM with this condition and with their concerns related to the lambing season. Erica, or Ms. Huggins echoed that as well. NDOW also brought up and was concerned with the winter migration of pronghorn and mule deer in that area. It's a concern of theirs, but they don't have the manpower to go up there and see if those animals are congregating in the area during construction activities, so they weren't going to pursue that.

Member Stanley said, in terms of the calendar, the main concern was the lambing season, which was identified as a two-month period. Planner Markey said yes, six weeks. Member Pierce asked what the total timeframe from start to finish of this admin permit would be to go in or explore the wells. Secretary Lloyd said the time starts from the approval by Washoe County. So, for example, if it got appealed, it would be the final date that the County took action, and that would start the time. And typically, it takes two years to complete all construction activities.

Member Pierce said but in good faith, would it be about one summer and one winter. Or would it be multiple years? Member Pierce asked how long does it say it was approved with the wildlife part left out? How long it's going to take? So, it doesn't disturb the wildlife again. Is it going to be one summer, one lambing season? Or is it going to be multiple? Ms. Freese responded they didn't have all the other approvals needed to do anything during this season. Nothing would happen through June 30 of this year. With the duration of the permit, there's probably one more season on there. Member Pierce said one lambing season, basically, right? And then, after that, it would be something else. Ms. Freese said yes. Then we would have to be back here.

Chair Thomas asked, on average, how long does it take to drill one well? Ms. Freese said on average, 45 days.

Chair Thomas said that doesn't include clearing the pads, getting roads in, or anything like that? Ms. Freese confirmed. Chair Thomas said that's 45 days, plus the infrastructure, and then it will be drilling 13 potential wells. The best-case scenario would be that all 13 wells are good. Ms. Freese said that would be the worst-case scenario. Ms. Freese said three wells are needed to be able to test the resource. One to produce out of, one to inject into, and then one to monitor. That's the minimum to be able to do a test of the viability of the resource. A minimum of three. With geothermal, there is a lot of exploration components. The fault system is not always found that was hoped to be intersected, or the permeability that is needed for injection on the first well, maybe sometimes not the second well. If all 13 wells were drilled and what was needed wasn't found, they'd be out of business. Geothermal drilling is very expensive to do. And so, it matters to define a commercially viable resource with a minimum number of wells, once that's determined it would go back to BLM to submit a utilization plan for the development of a full project. If not found, they PNA, reclaim, and walk away.

Chair Thomas said he's addressing the issue from the reverse order. If there's success with the well at site one, well site two is definitely drilled. And the intent is to do 13 well sites. And best-case scenario would be that all of them could meet the minimum requirements to produce. Ms. Freese said not exactly. Three wells are needed to be able to test the resource. Depending on what the information in the data from the wells and the testing says, that's where they start to make the resource model and determine how many wells they would need for a project. Typically they over permit the number of locations needed in the exploration phase because they don't know exactly where they want to go after drilling the first one. They give themselves options, enough options. They don't want to drill all 13 wells.

Chair Thomas said the project requests up to 13 sites, but what is needed is a minimum of three sites. And when three locations are drawn, it's three holes. Is that on three per pad or just three locations? The project is location is on 2.5 acres, they're not going to be drilling three holes on 2.5 acres. They could go a mile up in one direction and be successful on one mile in another direction be successful on two and a mile in the third direction and be successful on three. And that proves success. Ms. Freese confirmed, if the testing shows that it's successful.

Chair Thomas said if successful, after drilling, there is the possibility for 13 successful pads.

Ms. Freese said if the potential was there. Chair Thomas said if that is the case, all 13 pads would be fenced. Would that be correct? Ms. Freese said yes, they are required to fence if all are drilled,

all of them. Chair Thomas said then that would be 27 acres. There's a potential to fence off 27 acres, if you're successful.

Member Julian asked how much time it takes to drill a hole? 45 days for the drilling. How many days for construction, typically? Ms. Freese said it depends on how much grading work is required. But she would assume a few weeks for grading activities and then another two weeks to mobilize the rig on site and rig up.

Member Julian said now the discussion is 45 plus 35 days. So that's about 80 days per drill site, per pad. Ms. Freese noted they don't want to go to 13, obviously, but 3 times 80 is 240 days for one successful three-pad test. Then multiply that out if more are needed.

Member Julian said there was an interesting slide in the presentation showing Gerlach. It was pointed out that one bright light was the drilling rig. There were other lights in that picture with the drilling rig. Was that Gerlach lit up, or were they simulating other drilling rig lights? Ms. Huggins referenced her slide. She had all of the simulations that were prepared for the visual analysis from any other KOPs if Member Julian was interested in seeing them. Member Julian referenced the slide and said there are lights to the left and right of the well. Ms. Huggins said the lights in that picture are the actual lights in Gerlach at night. It was an actual picture taken from KOP 2.

Member Julian said, just as a reference, when a radius of 170 feet tall is set, was she to assume that there is a light on top of that rig that would be visible to planes flying over, other than the down shield lighting? Ms. Huggins said yes, the drill rig includes lights up along the taller part of the rig. And again, those are all designed with shields to ensure that the light is directed down.

Member Pierce looked to Secretary Lloyd to confirm that the admin permit, if approved during the present meeting, would be good for two years. Secretary Lloyd clarified; the admin permit is good for two years. They would need to get all the plans submitted and the permit issued within that two-year timeframe.

Member Pierce asked if there's no expiration date? They already mentioned that they're going to miss this lambing season. So the next lambing season will be the only one that, if he understood correctly, they may interfere with because it's only good for two years? Could they technically go for the next five years? Secretary Lloyd said no. There is an expiration from the County. That happens to take place with the issuance of the permit itself, the construction permit. They're good for one year, they may perhaps receive a one-time extension. If that time expires, they will have to come back to the Board for another administrative permit approval.

Member Pierce asked if condition seven was left out, did the applicant believe they could do what needed to be done? They were going to miss this year's lambing season. If the condition was removed so the applicant had the full year to work, could they be done with what was needed before the following lambing season? Ms. Freese said it's highly possible. But she wouldn't speak for her drilling team, but she thought they could probably get it done.

Member Pierce asked if would they be okay if the Board put a condition stating that two years down the road the applicant would have to honor the Department of Wildlife's request? Ms. Freese said sure.

Member Stanley said traditionally, the Board votes on what's on the paper and, adding conditions and subtracting them. Could the actual physical process be described? He understood the proposal as presented, and the Board is being asked to modify it. If the Board declined to modify it, does that mean that the applicant will need to go back and revisit their thinking? What's the process? Secretary Lloyd said if the Board approved the request with the conditions as currently

stated, the applicant would have an opportunity to appeal. They can appeal the whole thing or certain conditions. They can also appeal that decision directly to the County Commission.

Member Stanley said instead of appealing would they also have the option of revising their proposal and coming back? Mr. Lloyd said that's always an option.

Public Comment:

There was no response to the request for public comment.

Member Discussion:

Member Pierce asked what the Board thought about the wildlife condition?

Member Stanley said hopefully he made it clear, the more he learned about the site, the more he was in favor of adding restrictions to the project. Further, he wanted clarification that NDOW and BLM had been involved in the conversation. And the condition that is in the proposal before the Board is what was agreed upon between those two agencies. DDA Large said that's not correct. The Environmental Assessment references the NDOW condition. And what the environmental assessment says from BLM is that it does not have the impact. This is a request from NDOW, not from the BLM or the federal agencies. NDOW had submitted to federal; the Feds had disagreed with NDOW and now they are asking this Board to condition that.

Member Stanley asked if that includes the emails and the communication between the BLM representative and the NDOW representative. Because that's what he was asking about. He wanted to understand. DDA Large said he was unaware of that conversation. However, he believed that the EA's are usually very comprehensive. The one for this project was 301 pages. They usually consider all of NDOW's positions and all the local agencies. That's what the environmental assessments are there to do.

Chair Thomas asked whether there was a representative from the Department of Wildlife present. He didn't believe there was but, wanted to confirm. The concern he had was that what BLM may agree to does not necessarily mean that the Department of Wildlife agrees to. They are two different agencies with two different responsibilities. The Bureau of Land Management may say they have no problem with drilling on this site; whereas the Department of Wildlife will come back and say, that's a migration area, and it does impact the wildlife in that area. And that's why they have their recommendations. That was one of his concerns. Just because BLM is okay with it does not necessarily mean that it's a go or overrides what the Department of Wildlife might have to say or think on this. Chair Thomas' other concern was the number of days that are needed to add a drill site. Getting that done will take an extended period and really is definitely over a year's time, which would potentially impact wildlife and the migration area that goes through there. There was an issue there: if one location is impacted during lambing, how much of an impact does that have on wildlife? If it happens one year, do they just forget about it and come back next year, or does that have a ripple effect where the animals won't return to the area for a while? So, would there be a bigger concern by saying, 'okay, it's good for one year, and you get to drill rigs in there,' and then all of a sudden, the whole migratory path has to change, and they might not come back for five or six years? He did not know, and the Department of Wildlife isn't here to address that. And then, of course, he had mentioned early on; hopefully, it would not take 13 sites to be successful. But the worst-case scenario is if it were, it would be 32 acres that would be fenced. It is right in the lambing area and migration path. Those were his concerns.

Member Julian said she had the same concerns. She calculated about 8.5 years to do 13 wells at 240 days times 4. It's going to take years to finish that. Secondly, it sets a precedent. She highly doubted that agencies or boards would go back and make things stricter as time passes. She thought in fact, it would probably be making it less strict as time goes on. Thirdly, on page 24, the

letter from NDOW talks about migration and lambing. They basically conceded on migration a bit by saying it's difficult to monitor this in the winter, therefore, let's just address the lambing issue with April 15 through June 30. So that's already a concession on their part. She was very much opposed to removing the requirement for the seasonality. And in fact, she would change the wording on that condition to make sure that it included both construction and drilling. Right now, it sounds like it's only pertaining to construction. However, there are two things, construction is 35 days or so, and drilling is 45 days or so. She would make the condition clearer in that regard, much like the wording in the NDOW letter. On lighting, she requested that the lighting and the specifics of the dark sky requirements be explicitly put in the conditions as a condition. So essentially make the discussion of lighting on page five of the staff report, include that as a condition in the document as well. Finally, if one were to take that requirement about the seasonal stoppage of the drilling and construction out, wouldn't the applicant need to go back to the public for some comment? That was a question for Planner Markey. Was there any public comment received? Changes affect what the public reviews regarding this documentation. She believed the public would need to be given an opportunity to opine.

Member Christensen said in looking at the overall scope of the project versus the overall potential impact illustrated on page 31 he appreciated the fact that the Department of Wildlife is concerned. Still, he saw more of an impact from the City of Gerlach and the noise generated on the highway versus the impact this project would generate. He didn't see that it as a major problem. The 75 days from April 15 to June 30 is not an unreasonable time. The applicant has recourse if the project is approved, with the number seven condition. And they have a substantial recourse. They can rewrite this thing or take it to the Commissioners. He thought the Board ought to approve this particular application as it was conditioned. He stated he was not a wildlife biologist, but looking at the graphic, he didn't see the problem. Seventy-five days didn't seem like a big deal to him. He was strongly opposed to amending the conditions as presented and thought they needed to vote with condition number seven intact.

Member Pierce asked if the applicant would be okay if the Board made a motion to approve everything with a modified condition seven to start. They've already lost this year and said it's a make it or break it on their end. They're only going to lose one lambing season, and being a hunter himself, one lambing season may not affect things in the long term. But more than one, then there's a strong possibility, in his experience, that it may affect wildlife. He was ready to make a motion for this year, and next year, to give the green light. Because they've already lost this year, they're not going to be able to get out there. So that's one year. They may be done before 2024. They may be, but who knows? But if they're not, they'd only be interfering with one lambing season in 2024. Anything beyond that, they would have to stop between April 15, when lambing season ends.

Member Stanley said he agreed with Member Christians' view that the Board should vote with what's on the paper. They should take the advice. As stated, no one was a biologist, but there was quite a lot of interaction in the emails between the governing agencies. And there was a firm request made by one of the agencies that we solicit for opinions and advice with a condition. He didn't think Chair Thomas' math was objectionable. As Mr. Christiansen pointed out and as Secretary Lloyd pointed out, and DDA Large pointed out, the applicant has recourse and recourse is to rethink it, or agree to it, or appeal it. The Board was there to work with the situation as they saw it and whenever they can take the advice of the people that they solicit for advice in specialized areas. After the discussion with the planner on the same issue, he was fully prepared to vote as written and with certain modifications to clarify language, but not to delete or modify the requirements suggested by NDOW.

Member Julian said she was supportive of this proposal assuming that the language and condition seven read 'no construction or drilling activities during April 15 Through June 30,' making that point more clear.

Chair Thomas said to address that issue, exhibit B, page 30, which is the second letter received from the Department of Wildlife, dated December 13, it specifically says that - seasonal timing restrictions i.e., construction or drilling activities from the date. He supported the project. However, there were mitigating circumstances, such as the wildlife issue. There are still four months after, June through October, where they could drill a minimum of at least up to three wells using one well operation or drilling operation. If more drilling was brought to the site, they could do more and in a compressed period of time. He thought it could be done still considering the wildlife concerns. The only other thing he wanted to add was that he was not in favor of the dark sky because he'd been around drilling rigs before, and it's a dangerous operation they need as much light as possible, and it's a temporary operation. If it was permanent, he'd understand the dark sky request. He was not in favor of adding a condition for dark sky he believed the drilling rig needed the light, and it was temporary. Other than that, he was in favor of the Department of Wildlife's recommendation and the recommendations submitted by Staff.

Member Stanley said he wanted to echo the support of the concept. He was an Ormat Fan. He lives across from the other plant, and he greatly favored how they generate energy. But he's also a wildlife fan. If there's a way to work with both of those, great and there seems to be. A reasonable solution will prevail.

Member Julian said she wanted to clarify that when the staff report itself talks about shielded lights, it is compliant with dark sky. Which was already agreed to? She was also assuming that those shielded lights provide this substantial light for the facility. Could Staff confirm that it provides sufficient light for safety and is dark sky compliant.

Secretary Lloyd said the code does require that lighting be down-shielded so that it doesn't extend over property lines. He didn't know if it was necessary, but they could condition a photometric study if there's a concern that light would be extending over property lines. In that case, it's probably so far away from property lines that it is likely not an issue.

Member Stanley asked if he was to understand that the Board was suggesting a motion that reflected exactly what was on the paper? Or was he to understand that they were making a couple of word changes suggested by Member Julian.

Chair Thomas said once a motion is made, then a condition can be added or removed. After the members discussion he believed he heard the Board should: make a motion to approve with modifications as to the wildlife recommendation; or move forward with the recommended as received by Staff; or move with recommendations made by Staff with clarification as to no construction or drilling activities and the possibility of dark sky. Those were the three things that were discussed.

DDA Large said condition seven, as written, says 'no construction activities, road construction, drilling, etc.' within that condition, so he was unsure what needs to be included in terms of the motion.

Chair Thomas said there was some concern as to that verbiage. He just wanted to make all were on the same page.

MOTION: Member Julian moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN22-0025 for ORNI 26, LLC, with the conditions included as Exhibit A to this matter, and with the adjustment to condition seven to read, seasonal timing restrictions (i.e. no construction or drilling activities from April 15 to June 30), having made all four findings in accordance with Washoe County Development Code Section 110.808.25:

- (a) **Consistency.** That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the High Desert Area Plan;
- (b) **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;
- (c) **Site Suitability.** That the site is physically suitable for type of development, i.e. geothermal exploration, and for the intensity of such a development;
- (d) **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;

Discussion:

Member Pierce requested clarification on the condition. Member Julian said construction does include road construction and drilling of all construction on the site.

Member Julian said she was uncomfortable with the reference to construction because, construction is separate, taking 35 days, and drilling is separate, taking 45 days. These were two activities. She was not comfortable with (construction, drilling). She was more comfortable with adding construction and drilling.

Secretary Lloyd asked if the condition was changed to say, 'no construction or drilling activities from April 15 Through June 30,' would that suffice? Member Julian said that would suffice.

Member Stanley seconded the motion which carried four in favor, one against. Member Pierce opposed.

B. Administrative Permit Case Number WADMIN22-0026 (Zolezzi Garage) - For hearing, discussion, and possible action to approve an administrative permit for a 7,488 square foot detached accessory structure larger than the primary residence. The primary residence on the parcel is 1,520 square feet with an existing 865 square foot detached garage.

- Applicant/Owner: Longshot Investments, LLC
- Location: 395 Zolezzi Lane
- APN: 044-320-20
- Parcel Size: .66 acre
- Master Plan: Suburban Residential
- Regulatory Zone: Medium Density Suburban
- Area Plan: Southwest Truckee Meadows
- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 2 – Commissioner Lucey
- Staff: Courtney Weiche, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3608
- Email: cweiche@washoecounty.gov

Senior Planner Weiche provided a presentation via Zoom. The applicant's representative, Lisa Nash was in Chambers and available for questions.

Questions for Staff/Applicant:

Member Julian asked, at 26 feet high, was that the size of a two-story building or a three-story building? Sr. Planner Weiche said that is a typical one-story building, and this is a one-story with a maximum required setback. Member Julian asked what the height of the existing dwelling was? Member Julian believed there was a mobile home on the site. Sr. Planner Weiche said she would defer to the applicant. However, believed that it was a one-story building as well.

Member Julian said thank you for putting in the conditions regarding the color of the building. Was there a reason why the construction hours condition was not modified, as had been done in some of the other applications, to stress that there would be no mobilization of machinery or Staff before the 7 a.m. start time? That's been done before, and Member Julian was wondering if that might not be done again. Sr. Planner Weiche said they could modify that condition. She was aware there were previous meetings where that had been requested and amended.

Member Christensen said the public notices were issued to approximately 85 separate property owners. Were there any objections to this project from the neighbors?

Ms. Nash said they didn't receive anything. And she spoke with the residents, and the only question that came up for many neighbors was what would be the use of storage and whether it's for personal storage, and not for a business. Maybe a wood workshop at some point. But there were no objections.

Member Stanley asked if Ms. Nash would have a problem with having mobilization begin at 7 a.m. Ms. Nash said there would be no problem with that condition.

Public Comment:

There was no response to the request for public comment.

Member Discussion:

Member Stanley said it looked like a clean project. Chair Thomas concurred.

Member Julian said she's supportive if they can condition regarding the mobilization of workers and machinery before 7 a.m.

Secretary Lloyd said to Member Julian that Staff would change their template to include that language on future projects. Chair Thomas said he believed that is boilerplate standard language for Washoe County right now, as it is in the conditions, correct? Secretary Lloyd said the way it's written in the condition is our boilerplate. Chair Thomas said that has been on every project ever since I've been on the Board and now, we're going to start modifying that. He would hold off on questions about that until the end of the meeting.

MOTION: Member Stanley moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN22-0026 for Longshot Investments, LLC, with the conditions included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Development Code Section 110.808.25, and with amendments to the time of operation and mobilization to begin no earlier than 7 a.m.:

- (a) Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan;**
- (b) 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;

- (c) **Site Suitability.** That the site is physically suitable for detached accessory structure, and for the intensity of such a development;
- (d) **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;
- (e) **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.

Member Christensen seconded the motion which carried unanimously in favor.

C. Administrative Permit Case Number WADMIN22-0027 (Roberts Garage) – For hearing, discussion, and possible action to approve an administrative permit for a ±1,136 SF detached accessory structure that is larger than the existing ±1,070 SF main residence.

- Applicant/Owner: John Roberts
- Location: 354 Wassou Road
- APN: 123-152-05
- Parcel Size: 7,623 SF
- Master Plan: Tahoe
- Regulatory Zone: TA_CB
- Area Plan: Tahoe
- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 1 - Commissioner Hill
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328-3627
- Email: jolander@washoecounty.gov

Planner Olander provided a presentation. Applicant, John Roberts was available for questions.

Questions for Staff/Applicant and Member Discussion:

Member Julian thanked Planner Olander for the presentation, and especially for including the mobilization point in the conditions about mobilizing before 7 a.m. and that's particularly important in this neighborhood because it is a very tight neighborhood. She took a site visit to the area; it was a block full of properties and a very narrow street. She wondered if Planner Olander had any conversations about snow plowing with the roads department on whether that would be an issue?

Planner Olander said she did not receive any comments from engineering or the GID on that. She was not sure exactly what the status was on Wassou and their snowplow requirements. However, it shouldn't impact that in the sense that they're not building to the right-of-way. Wassou is a very challenging road, anyway.

Member Julian said it is very challenging. Going forward with similar cases, she recommended reaching out to the roads department. Planner Olander said it was engineering who would provide those comments.

Member Julian said she noticed in the previous garage application as well that Washoe-Storey Conservation District was not consulted. Was there a reason? It was consulted in the case of the IVGID Bike Park.

Planner Olander said Washoe-Storey Conservation is a standard agency, and it's up to Staff and the location and where the impacts would be. This was just a garage. So, she was not sure that Washoe-Storey Conservation would have a specific impact on the type of development. It was up to the planner's discretion to decide who would have comments on each application.

Chair Thomas said he went through the packet itself, and looking at Exhibit D, page 29, where it showed the footprints of the size of the garage. Those square footages did not add up. They varied. On one of them, 23.5 feet on the side; the front of the garage 123 feet and on another 125 feet. Also earlier in the documentation, it has 29 feet. However, although not exact, once the individual submits the actual building plans that will codify the actual dimensions of the structure. Planner Olander said that's correct. She appreciated Chair Thomas catching the discrepancy in the dimensions. The applicant confirmed the size of the garage. When the building permit comes in, that will be confirmed, along with the setbacks. Ensuring that they do meet that requirement of the slope so that they can have the garage either placed on the property line, or wherever it needs to be placed. That process is reviewed during the building permit application process. Chair Thomas thanked Planner Olander for reaching out and clarifying this earlier.

Mr. Roberts answered questions regarding snow removal and historic preservation. The garage is 23.5' x 23.5', but it increased to accommodate the fire sprinklers.

Public Comment:

Jeffrey Scott O'Brien (Zoom) said, "I just have three questions. One, what is the height of the garage at its peak? I tried to find what the maximum ADU is for the area and the proposed one is larger than the existing one. Is that an acceptable allowance?"

Secretary Lloyd explained that it was time for testimony, not for questions.

There was no further response to the request for public comment. Chair Thomas closed the public comment period.

Member Julian asked Staff to elaborate on the height of the structure.

Secretary Lloyd suggested asking that question of the applicant, because it looked like it was built on a slope. And measuring height on a slope is a little more complex. It's based on a measurement using a data point and then measuring to the midpoint of the roof not to the peak of the roof. Maybe the applicant had that answer available.

Mr. Roberts said the proposed height from the bottom of the elevation to the top of the roof was within the TRPA guidelines. The proposed height is 31 feet, four inches. Again, that is the lower portion. That is not from the street elevation. That would be the maximum height as shown in the plans. Member Julian asked what it was from the street to the top? Mr. Roberts said 13 feet, 6 inches.

Member Julian said she visited the site and it is a terribly steep slope. The garage did not appear to obscure anyone's view or anything like that. Personally, she was comfortable with it. She also had the opportunity to speak with a neighbor who spoke highly of Mr. Roberts and his family. This neighbor, who lived across the street, didn't seem to have any problem with this project. It seems very useful to have indoor parking in that neighborhood to avoid having cars on that road. She was fully supportive of the application.

MOTION: Member Pierce moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN22-0027 for John Roberts, with the conditions included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Development Code Section 110.808.25.

- (a) **Consistency.** That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;
- (b) **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;
- (c) **Site Suitability.** That the site is physically suitable for detached accessory structure and for the intensity of such a development;
- (d) **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;
- (e) **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.

Member Stanley seconded the motion, which carried unanimously in favor.

D. Special Use Permit Case Number WSUP22-0029 (IVGID Bike Park Phase II Grading) [For Possible Action] - For hearing, discussion, and possible action to approve a special use permit for participant sports facilities use type and major grading associated with the construction of Phase II of the IVGID Bike Park. The total grading proposed is approximately 25 cubic yards of cut and 1,000 cubic yards of fill, with 18,605 square feet of disturbed area and a request to vary the 3:1 maximum slope standard per WCC110.438.45 (a).

- Applicant/Owner: Incline Village General Improvement District
- Location: 964 Incline Way
- APN: 127-030-31
- Parcel Size: 18.36 acres
- Master Plan: Incline Village Tourist
- Regulatory Zone: Tahoe, Incline Village Tourist
- Area Plan: Tahoe
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 1 - Commissioner Hill
- Staff: Kat Oakley, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3628
- Email: koakley@washoecounty.gov

Planner Oakley provided a presentation. Applicants, Randolph McLean and Hudson Klein were available via Zoom to answer questions.

Questions for Staff/Applicant and Member Discussion:

Chair Thomas said on page seven of the staff report under project evaluation, there's a statement that reads "participant's sport facilities parking is assessed on a case-by-case basis," what did that mean?

Planner Oakley said in County code there are for different uses, there will be a parking table or a list of the spaces required for the different uses. Participant sports facilities, includes a number of uses, including things like tennis courts. Some of those uses have specific numbers associated with them for the number of spaces required per tennis court. For example, for other uses that are not specifically laid out with numbers, the County is directed to assess them on a case-by-case basis. So essentially, that would mean that it would be up to the planner, the board, or some combination thereof, to determine a reasonable number of spaces. It does not provide more direction than that.

Chair Thomas said it's more directed inward toward a planner to decide than somebody standing out there and saying, this is a case-by-case basis. Thanks for pointing that out.

Member Julian complimented the staff report. Living in Incline Village, she thought it was very thorough, and appreciated the specific references in the packet to the number of comments received or not received, the mobilization language under construction, and the addition of landscaping as a condition. She also appreciated the quality of the presentation.

Chair Thomas said he thought only comment was received for this project.

Member Pierce asked if it was a typo on page 32, under the special use permit application supplemental information on item three, that referenced the project would be completed in one phase construction starting in May of 22 and the end of June 22. Planner Oakley said it was her assumption that it was either a typo or a former timeline that is no longer applicable, the applicant was also available to answer questions.

Applicant Randolph McLean was available on Zoom to answer questions.

Public Comment:

There was no response to the request for public comment.

Member Stanley stated it seemed like a great use of land and appreciated the input from the planning staff report, but also Member Julian's supportive comments about it, being a local Incline Village resident herself.

Member Julian said there's so much vegetation around the area. She wasn't even clear there was a bike park back there; and she's lived there for more than five years. It is well shielded from the public.

MOTION: Member Julian moved 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 with conditions Special Use Permit Case Number WSUP22-0029 for the Incline Village General Improvement District, with the conditions included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Code Section 110.810.30:

- (a) Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;**
- (b) 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;

- (c) **Site Suitability.** That the site is physically suitable for a participant sports facility, and for the intensity of such a development;
- (d) **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;
- (e) **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.

Member Pierce seconded the motion which carried unanimously in favor.

9. Chair and Board Items

A. Future Agenda Items –

Member Christensen noted he would be absent for the February 2, 2023, meeting.

B. Requests for Information from Staff –

Chair Thomas wanted to address the boilerplate language regarding construction hours. Using new language, such as mobilization, is vague. DDA Large noted County Code does not define mobilization, but Staff can bring back updated boilerplate language to this Board. Secretary Lloyd noted clarity is essential. Construction activities are limited to 7 a.m. to 7 p.m. Nor shall machinery arrive on-site prior. Something along those lines could be drafted. Chair Thomas said he was nervous about the rabbit hole; Staff and the Board needed to be careful about closing every loophole. Code enforcement can address it; the Board doesn't need to take that on. Member Julian clarified concerns regarding meetings that discussed the workers arriving at 6-6:30 a.m. She suggested using the language in congested neighborhoods. She said it's acceptable language to include that equipment does not arrive prior to 7 a.m. She said she encourages Staff to include the language where it's appropriate. Member Pierce said if looking at the start time, the ending time must be considered as well. It would be difficult. DDA Large advised the Board to bring this discussion to a future meeting with Staff's recommendation.

Member Stanley asked Secretary Lloyd if he knew whether or not planners were aware of applicant's reticence to accept the condition in the application. Secretary Lloyd said Planning was informed of the concern, but did not know the timing, and would look into it.

Member Stanley said he understands how CABs now operate. Development projects have their own discussion sessions. Was there such a meeting for the Ormat? Because he didn't see a notification of it or any results from one. He was curious about the process. Secretary Lloyd said there was a neighborhood meeting, not a CAB meeting.

Member Julian said she had a question that touched on what was in the IVGID application. It referenced the neighborhood meeting in the IVGID application. She thought it would be helpful to include the findings of neighborhood meetings in the staff reports. Having been on a CAB, she understood that the CABs were taken out of the loop and it was replaced with neighborhood meetings. But if input from the neighborhood meetings isn't being received, then the important source of public comment is lost. And it may be that some people commented about the neighborhood meeting and felt they had already commented; therefore, it was not necessary to comment again. Secretary Lloyd said that was a good point. He would stress that with all of the staff reports, to include a discussion on the neighborhood meeting and the issues that came up and how they were addressed.

10. Director's and Legal Counsel's Items

A. Report on Previous Board of Adjustment Items - None

B. Legal Information and Updates - None

11. Public comment

There was no response to the request for public comment.

12. Adjournment

The meeting adjourned at 3:41 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in Session on February 2, 2023

Trevor Lloyd
Secretary of the Board of Adjustment