STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** June 7, 2018

Staff Contact: Hope Sullivan, Planning Manager (hsullivan@carson.org)

Agenda Title: For Possible Action: To consider an appeal of the Planning Commission's affirmation of the staff's interpretation and application of Section 1.3 of the Development Standards concerning fencing, and the staff's interpretation and application of Carson City Municipal Code 18.05.055 regarding accessory structures relative to a Notice of Violation and Order to Comply, and relative to improvements made at 3809 Ponderosa Drive, on property zoned Single Family One Acre, APN 009-137-07.

Staff Summary: At its meeting of March 28, 2018, the Planning Commission conducted a public hearing to consider an appeal of the staff's interpretation and application of Section 1.13 of the Development Standards concerning fencing, and 18.05.055 of the Municipal Code regarding accessory structures relative to improvements at property located at 3809 Ponderosa Drive. At the conclusion of the public hearing, the Planning Commission voted 4 to 2, 1 absent, to affirm staff's interpretation and application of both code sections. The property owner is appealing the action of the Planning Commission.

Agenda Action: Formal Action/Motion **Time Requested:** 1 hour

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Proposed Motion

I move to deny the appeal and uphold the decision of the Planning Commission to affirm the staff's interpretation and application of Section 1.13 of the Development Standards concerning fencing, and the staff's interpretation and application of Carson City Municpal Code 18.05.055 regarding accessory structures relative to improvements to property located at 3809 Ponderosa Drive.

Board's Strategic Goal

N/A

Previous Action

At its meeting of March 28, 2018, the Planning Commission considered the appeal of the staff's interpretation and application of the two code sections vis-à-vis the improvements at 3809 Ponderosa Drive, and voted 4 - 2, 1 absent to affirm staff's interpretation.

Background/Issues & Analysis

Background and an outline of the issues and analysis are included in the attachments to this report.

Attachments:
1. Memo of May 16, 2018 from the Planning Manager to the Board of Supervisors
2. Letter of Appeal dated April 6, 2018
3. Minutes of the March 28, 2018 Planning Commission meeting
4. Staff report to the Planning Commission with attachments
5. Late material provided to the Planning Commission from the Planning Manager
6. Late material provided to the Planning Commission from the Appellant

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 18.02.060 (Appeals), CCMC 18.03.010 (Words and Terms Defined: Accessory Building or Accessory Structure), CCMC 18.03.010 (Words and Terms Defined: Accessory Farm Structure or Accessory Farm Building), CCMC 18.04.055 (Single Family 1 Acre), CCMC 18.05.030 (Trailers, Mobilehomes, Recreational Vehicles, Commercial Coaches and Storage Containers), CCMC 18.05.050 (Accessory Farm Structures); CCMC 18.05.055 (Accessory Structures); CCMC 18.16 (Development Standards), and Development Standards Division 1 (Land Use and Site Design)

Financial Information

Is there a fiscal impact? ☐ Yes ☒ No

If yes, account name/number:

Is it currently budgeted? ☐ Yes ☒ No

Explanation of Fiscal Impact: N/A

Alternatives

(1) Reverse the decision of the Planning Commission, in whole or in part, and advise of the correct interpretation and application of the code provisions;

(2) If additional information is submitted to the Board that it believes warrants further review and consideration, refer the matter back to the Planning Commission for further consideration.

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay

2) _____ _____

_____

_____

_____

_____

_____

(Vote Recorded By)

Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

MEMORANDUM

Board of Supervisors Meeting of June 7, 2018

TO: Board of Supervisors

FROM: Hope Sullivan, AICP
Planning Manager

DATE: May 16, 2018

SUBJECT: **MISC-18-063: An Appeal of the Planning Commission's Decision**

The purpose of this memorandum is to provide supplemental information relative to issues addressed at the Planning Commission's public hearing on March 28, 2018, and issues addressed in the appellant's letter of appeal dated April 6, 2018. This memorandum clarifies information already put into the record.

Materials Distributed at the Planning Commission meeting by the Appellant

At the March 28, 2018 Planning Commission public hearing, the appellant's attorney distributed a letter dated March 28, 2018 along with a map and photographs of 23 alleged code violations in the neighborhood. The staff has investigated the 23 alleged violations and found the following:

- One property is already subject to code enforcement activity.
- One property could not be found.
- Eleven properties were found to be compliant.
- Ten properties were found to not be compliant.

Of the non-compliant properties, a review of aerial photographs shows the following.

- Two of the properties had non-compliant improvements prior to 1990.
- One of the properties installed non-compliant improvements between 1990 and 1994.
- Three properties installed non-compliant improvements between 1999 and 2004.
- One property installed non-compliant improvements between 2007 and 2008.
- One property installed non-compliant improvements between 2011 and 2012.
- One property installed non-compliant improvements between 2015 and 2016.
- One property installed non-compliant improvements between 2016 and 2017.

Non-compliant properties have been referred to code enforcement for follow up.

Division 1: Land Use and Site Design

The General statement identified by the appellant states: "These design standards have been prepared to foster quality design of office, commercial, multi-family, public, industrial and

institutional projects within Carson City." It does not state the purpose, intent or applicability. Furthermore, a following sentence states: "These standards are intended to inspire development of lasting quality and designs that enhance the **overall community**." [Emphasis added.]

While some subsections of Division 1 reference only non-single-family zoning districts, to accept the appellant's contention that the standards of Division do not apply to single family zoning districts would mean that all the following standards would not apply to these districts, even though there are specific references to single family districts:

1.4 Guest buildings
1.6 Child care
1.7 Bed and Breakfast standards (all Historic District residences)
1.8 Satellite dishes and antennas
1.9 Wireless telecommunication facilities and equipment
1.10 Personal storage and metal storage containers (subject of appeal)
1.13 Fences, walls and hedges (subject of appeal)
1.14 Cornices, porches and projections into setbacks
1.15 Manufactured home installation in single family zoning district
1.16 Youth recreation facility performance standards (Single Family 6000)
Residential District Intensity and Dimensional Standards (duplicated from Title 18)

Division 1 of the Development Standards was made a part of the record at the Planning Commission meeting.

Measurement of Fence Height
Carson City Development Standards 1.13, Subsection 4 states:

"The height of a fence, wall or hedge shall be measured from the highest adjacent ground, either natural or filled, upon which it is located, except within 15 feet of any front property line or within 30 feet of any street intersection, wherein all base measurements shall be considered from an extension of street grade."

As part of the appeal to the Planning Commission, the applicant challenged if staff had utilized the proper base measurement, specifically an extension of street grade, as opposed to highest adjacent grade. When measured from an extension of the street grade, given the relatively flat topography, the fence exceeds four feet in height, therefore is taller than permitted per code.

Purpose of the Letter of February 5, 2018 from the Planning Manager
During the Planning Commission public hearing, the appellant's attorney referred to the letter of February 5, 2018 written by the Planning Manager as the Final Notice of Code Violation.

The appellant's letter of April 6, 2018 refers to the February 5, 2018 letter as a "letter of final decision."

This misconception was addressed at the Planning Commission public hearing, and is described on Page 8 of the meeting minutes. As stated in the minutes "Ms. Sullivan clarified that the intent of the letter sent to Mr. Gibbons was not a final notice of code violation. She believed that the responses received from Mr. Gibbons to letters by Assistant Planner Kathe

Green indicated that "there was disagreement in how the code was being applied"; therefore, she had given Mr. Gibbons an opportunity to appeal."

The letter of February 5, 2018 clearly states "The purpose of this letter is to formally advise you of the staff's interpretation and application of the Municipal Code vis-à-vis the improvements at the above referenced property." The letter goes on to describe the appeal process. The intent of the letter was to provide the property owner with due process given an apparent disagreement regarding the application of the code.

Phone call of August 25, 2016

During the Planning Commission public hearing, there was discussion regarding a phone call between the Planning Manager and the property owner that occurred in August 2016. There was disagreement regarding the substance of the phone call.

A copy of the email sent by the Planning Manager to the Code Enforcement Officer immediately following the phone call of August 25, 2016 is attached. This email states, in part, "At the end of the conversation, he advised he will adjust the portion of the fence in the front setback to meet code requirements."

Code Enforcement Outreach

A letter dated March 28, 2018 written by the appellant's attorney was distributed at the Planning Commission's public hearing. This letter states that "On January 5, 2018, Ponderosa EQ received a letter dated December 29, 2017 from the City, asserting for the first time that his fence was in violation."

On November 3, 2016, the Code Enforcement Officer sent a letter to Ponderosa EQ Land Trust. This letter stated, in part "As of this date, the violation still exists and needs to be resolved." This letter was sent certified mail, and was received by the property owner on November 4, 2016. A copy of the letter is attached to this memo.

Note an effort is not made in this memorandum to outline each step Code Enforcement took regarding this matter. Rather, as one Planning Commissioner voted against affirmation of the staff's interpretation based on, in part, the length of time "it took for the whole process to unfold" (quoted from Page 9 of the meeting minutes), staff wants the record to reflect that there were outreach efforts. References were made by Planning staff to these outreach efforts during the Planning Commission's public hearing.

CCMC 18.05.030 v. CCMC 18.05.055

Carson City Municipal Code (CCMC) 18.05.030 addresses Trailers, Mobilehomes, Recreational Vehicles, Commercial Coaches and Storage Containers.

CCMC 18.05.055 addresses Accessory Structures.

On December 29, 2017, the Assistant Planner wrote a "Notice of Violation / Order to Comply," and identified that the applicant had storage containers on the property, and advised the containers were in violation of CCMC 18.05.030.

On January 16, 2018, the Code Enforcement Officer sent an email to the Assistant Planner advising that the property owner was "in the process of covering the containers." A copy of this email is attached.

In her letter of February 5, 2018, the Planning Manager writes “Staff has observed that structures similar to cargo containers have been placed on your property. These structures have been enclosed with walls and roof structures, resulting in the cargo containers essentially being housed within a building.”

Given the activity of “housing” the containers that occurred in January 2018, the Planning Manager’s letter references CCMC 18.05.055, which includes regulations regarding accessory buildings. The change in the code reference is a result of the modification made to the structures on site.

The Planning Commission’s action to affirm the staff’s interpretation and application of the code was based on staff’s interpretation as presented in the letter of February 5, 2018.

Kevin McCoy

From: Hope Sullivan
Sent: Thursday, August 25, 2016 10:43 AM
To: Kevin McCoy
Cc: Kathe Green
Subject: Fence: 3809 Ponderosa

Kevin:
I spoke with Mr. Gibbons around 10:30 this morning on the telephone. He returned the call I placed to him earlier this AM. He explained that his property line does NOT go to the middle of the road. He understands that the masonry portion of his fence may not exceed 3 feet in the front setback, and that the open portion of the fence may not exceed 4 feet. He also understands that to keep the fence as built would require review and approval by the Planning Commission in the form of a Special Use Permit. At the end of the conversation, he advised he will adjust the portion of the fence in the front setback to meet code requirements.

Please advise if you need me to memorialize my conversation with him into a letter either today, or at some later date.

Thanks!

Hope

Carson City Code Enforcement

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
codeenforcement@carson.org
www.carson.org/planning

November 3, 2016

Certified Mail 70153010000019208687

Ponderosa EQ Land Trust
C/O Equity Management Service, Trustee
1805 N Carson St Ste N
Carson City NV 89701

RE: Wall/Fencing

Ponderosa Eq Land Trust,

August 25, 2016, Mr. Gibbons had a conversation with Hope Sullivan, Planning Manager, regarding the west wall and fencing set back requirements. As of this date, the violation still exists and needs to be resolved.

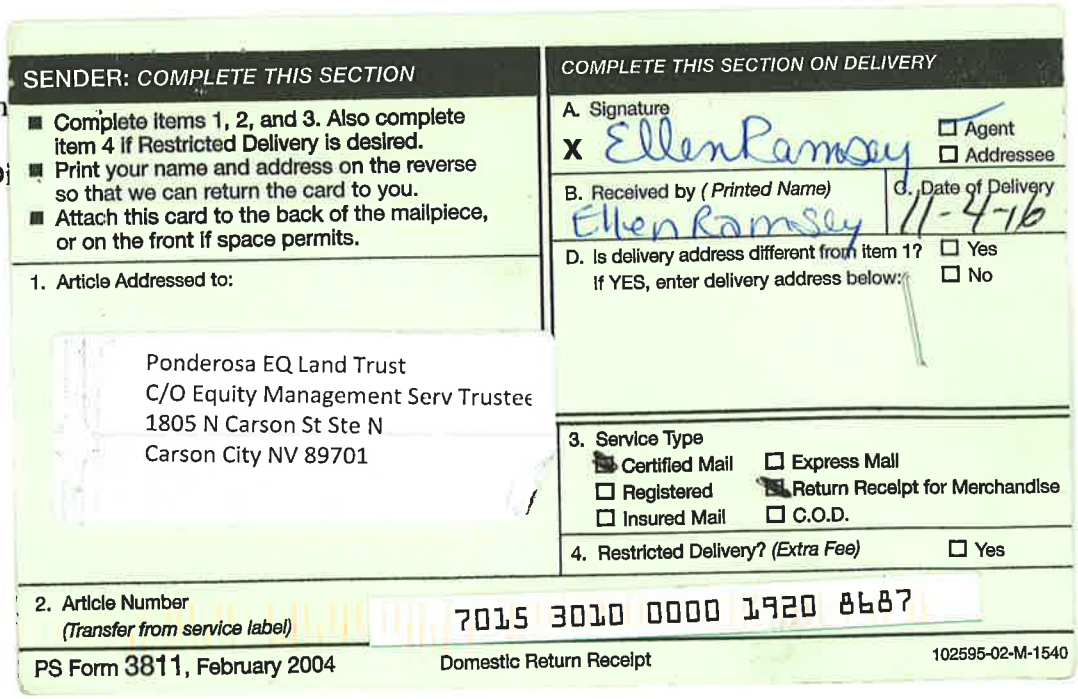
There are two (2) ways to resolve this matter. First, a Special Use Permit may be applied for; second, the wall and fencing needs to be brought into compliance. Should you decide to apply for a Special Use Permit, the required paperwork and fee must be received on or before December 15, 2016 for the January 2017 Planning Commission meeting. If you decide to bring the wall and fencing into compliance, you must contact me, 775-283-7229 or Hope Sullivan, 775-887-2180 to set a start and completion date.

Your prompt attention to this matter is appreciated.

Regards

Kevin McCoy
Senior Code Enforcemen

C; Iris Yowell-Deputy Di
File-Case 8531



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ponderosa EQ Land Trust
C/O Equity Management Serv Trustee
1805 N Carson St Ste N
Carson City NV 89701

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Ellen Ramsey ☐ Agent ☐ Addressee

B. Received by (Printed Name) Ellen Ramsey
C. Date of Delivery 11-4-16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7015 3010 0000 1920 8687

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

From: Kevin McCoy
To: Kathe Green
Subject: Ponderosa Dr Storage Containers
Date: Tuesday, January 16, 2018 4:41:43 PM
Attachments: 100_5187.JPG
100_5188.JPG
100_5189.JPG

Kathe,

I received a voice mail from [redacted] stating the property [redacted] are in the process of covering the containers. Bill and I went out and took the attached photos today. FYI.

Kevin


01/16/2018
15:08


01/16/2018
15:08


01/16/2018
15:09

Equity Management Services

Asset Management Services
Via Certified United States Mail

April 6, 2018

Carson City Planning Division
108 East Proctor Street
Carson City, NV 89701

Attn: City Planning Commission

Re: Final vote of Planning Commission, on March 28, 2018. MISC - 18-038

Notice of Appeal pursuant to CCMC 18.02.060

Please be advised that both of my certified letters to Kathe Green, dated January 23, 2018, and my certified letter of Appeal to Hope Sullivan dated February 15, 2018, each regarding the "*Wall/Fence*" and the "*Storage Containers*" respectively or both, are each incorporated herein by reference as though fully set forth herein.

Also, incorporated by reference is the Staff Report for Planning Commission Meeting of March 28, 2018, the presentation documents provided to the Commission on March 28, by Kevin Benson, attorney for the appellant, and the official records, minutes, recordings, and transcripts of the said Commission March 28, 2018, meeting, relevant to the appellant, as though each was fully set forth herein.

Whereas the undersigned appellant participated in the administrative process of Appellant's appeals from Planning staff's decision regarding Section 1.13 of the Carson City Development Standards, and staff's decision regarding Carson City Municipal Code (*CCMC*) § 18.05.055, to the Planning Commission, on March 28, 2018. And whereas, at that meeting the Commissioners in 2 consecutive 4 – 2 votes affirmed both staff decisions, the appellant hereby gives its Notice of Appeal to the board pursuant to CCMC § 18.02.060(2).

No issues not previously raised in the administrative process are raised by this appeal.

This appeal is based on the failure and refusal of the Commission to apply the law as written.

Alleged violation of CCMC § 18.05.055:

With respect to staff's decision regarding CCMC § 18.05.055, The original Notice of Violation issued by Kathe Green on December 29, 2017, cited § 18.05.030 as the violation requiring remediation. Section 18.05.030(1)(b) was again cited by Hope Sullivan in her letter of final decision dated February 5, 2018. Then at the Planning Commission hearing the City changed the alleged violation to § 18.05.055. This is an impermissible abuse of the appeal process. The City does not have the authority to change the alleged violation mid-process and for this reason alone the Commission decision must be overturned.

Notwithstanding the City's obvious confusion over which ordinance they are attempting to selectively enforce, the Commission has failed and refused to consider CCMC § 18.04.055 raised as a defense by the Appellant, and, at the Commission hearing on this matter, they have demonstrated confusion between the legal definition of a "*Building*" and that of a "*Structure*" both

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given within the definitions provided under CCMC § 18.03.010. First we will present the controlling definitions.

> *18.03.010 - Words and terms defined.*
> *"Building" means any structure (including membrane structures) having a roof supported by columns or walls and built for the shelter or used for the enclosure of persons, animals, chattels or property of any kind, including but not limited to awnings, carports, ramadas, or patios. See also building, primary and building, detached."*
> *"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner and may include a root cellar or similar structure. Not included are residential fences, retaining walls, rockeries, decks not exceeding 30 inches in height above grade and similar improvements of a minor character."*

Thus, the distinguishing characteristic of a building as compared to other structures is that a building has a roof supported by walls or columns, and as such may require a building permit and plan check to insure structural integrity. Although, permits are not required for many pre-engineered and pre-fabricated buildings, where structural integrity is not a question. In this case we are dealing with accessory structures created by adding a facade to a cargo container. Containers are structures pre-approved by the city, as structurally sound, in a variety of CCMC sections. Some of those include: § 18.04.130, § 18.04.135, § 18.04.145, § 18.04.150, § 18.04.155, § 18.04.170, § 18.04.175, § 18.04.180, § 18.04.185, § 18.05.015, § 18.05.025, and Appendix § 1.10, all of which treat storage containers as pre-approved structures not requiring a building permit or inspection for their use. Arguably, the cargo container is one of the strongest prefabricated structures on the planet, they can be moved and stacked several layers high even when fully laden, so structural integrity is not an issue and requiring a building permit for a cargo container would be ludicrous.

As can be seen from the photos presented to the Planning Department and to the Planning Commission, the structures in question have been converted from "*Metal storage containers*" to "*Accessory structures*" by the addition of a facade matching in appearance common siding and trim for homes and other types of structures, such that none of the corrugated steel of the container is visible from the outside. By appearance these structures no longer resemble containers and are outwardly no different from any other structure, aside from their inherent strength and the fact that all of the above cited CCMC sections indicate that no building permit would be required for such a structure.

Having dispensed with the Commissions suggestion that a cargo container may require a building permit we turn now to CCMC § 18.04.055 – Single-family 1 Acre (SF1A) which states in relevant part as follows:

> *18.04.055 - Single-family 1 Acre (SF1A).*
> *1. The primary **permitted** uses in the SF1A district are this list plus other uses of a similar nature: ...*
> *2. The accessory **permitted** uses **incidental** to primary permitted uses within the SF1A district are this list plus other uses of a similar nature:*
> ***Accessory farm structure;***
> ***Accessory structure;** ...*

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Clearly, § 18.04.055 states that accessory farm structures and accessory structures are a "*permitted*" use "*incidental*" to the use of SF1A zoned property. For reasons unknown, the City has refused to even consider this section of the CCMC, despite the fact that we have raised it at every step of this process. Subsection 2 of § 18.04.055 is made more clear by subsection 3, which lists those items that do require a special use permit. Thus, the City's suggestion that a special use permit is required for these accessory structures is contrary to the law on its face and should be overturned.

Notwithstanding the above, Carson City's ruling on this matter fails on every other point raised by the City. Carson City originally asserted a violation of Carson City Municipal Code (*CCMC*) § 18.05.030(1)((b) titled: "*Trailers, mobilehomes, recreational vehicles, commercial coaches and storage containers*" which states in cited part as follows:

> *18.05.030 - Trailers, mobilehomes, recreational vehicles, commercial coaches and storage containers.*
>
> *1. Except as otherwise provided in this section:*
>
> *a. No automobile, recreational vehicle, tent, train, boxcar, semi-truck trailer, passenger coach, bus, streetcar body or similar enclosure may be used or erected for storage or occupied for living or sleeping purposes in any use district.*
>
> *b. Tents, trains, boxcars, semi-truck trailers, passenger coaches, busses, streetcar bodies or similar enclosures and rolling stock are prohibited in all residential zoning districts.*

CCMC § 18.02.025(5)(a) states that: ***"The headings contained in this title are for convenience only and do not limit or modify the intent or meaning of the provisions."*** Yet, the text of § . 05.030(1)(a) & (b) which the City cited, does NOT mention "S*torage containers*" nor "M*etal storage containers*" in their list of prohibited enclosures. Because, CCMC § 18.02.025(5)(a) makes clear that the use of the term "*storage containers*" in the heading of a code section cannot be construed to limit or modify the intent or meaning of the substantive provision(s), Clearly, § 18.05.030(1) does NOT apply to storage containers. Had the drafter intended that storage containers be included in subsection (1), they would have listed it. Neither can the phrase "*similar enclosure*" within § 18.05.030(1)(b) mean '*all*' enclosures. For example, considering the "*enclosures*" listed, there is no similarity between a tent and a box car, despite both being listed in § 18.05.030(1). Tents and box cars are not similar, except perhaps that they both could be categorized as '*enclosures.*' The, use of the phrase "*or similar enclosures*" in CCMC § 18.05.030(1)(b) is vague, because '*similarity*' is a completely subjective term and we are forced to speculate as to what '*similarity*' actually means from an objective point of view. Further, as explained above, storage containers are specifically allowed by a variety of CCMC sections whereas the enclosures listed in § 18.05.030(1) are not thus indicating that they are not considered "*similar enclosures*" under the CCMC since they receive dissimilar treatment. Laws that require speculation as to what they actually mean, are void for vagueness. Thus, the phrase "*or similar enclosure*" is simply void for vagueness and must be ignored, or in the alternative, all of § 18.05.030(1)(b) is void for vagueness. The City does not have the authority to expand the meaning of the law to include something that is not included in the letter of the law.

Further, the structures in question are not storage containers by any applicable definition. The term "*Storage container*" and "*Metal storage container*" are legal terms given a legal definition by CCMC § 18.03.005 as follows:

> *"Metal storage container" means a fully enclosed unit, excluding semi-truck trailers,*

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> *that houses storage items* ***in the industrial, commercial and public districts****. In addition, used temporarily at a construction site.*
>
> *And,*
>
> *"Storage container" means a fully enclosed unit, excluding semi-truck trailers, that houses storage items* ***in the industrial, commercial and public districts.*** *In addition, used temporarily at a construction site.*

Obviously a single family residence situated on a lot zoned SF1A could not possibly have a *"Metal storage container"* or a "*Storage container*" upon it, as defined by the CCMC, since an SF1A residence is NOT "***in the industrial, commercial and public districts.***" It may appear that the definitions are poorly drafted for their intended purpose, however, those are the definitions given and law may not be changed by bureaucratic fiat. Given that the terms, "*Storage containers*" and "*Metal storage containers*" are both legal terms defined by the CCMC at 18.03.005, and neither are listed as a prohibited enclosure in the substantive provisions of § 18.05.030(1) list of prohibited structures. It is a factual impossibility for the accused to have violated § 18.05.030(1) cited by the City. Perhaps this is the reason the City decided to switch violations mid-process, thereby admitting there never was any violation of § 18.05.030.

The City now alleges without any supporting fact that Appellant violated CCMC § 18.05.055(7) and (8) which restrict accessory structure square footage to 50% of the primary building under subsection 7, and restrict accessory structures to not more that 5% of the parcel size under subsection 8. (*see: Hope Sullivan final decision dated Feb. 5, 2018, at page 2*) However, simple math indicates that no violation of these two subsections is possible since the accessory structures in question are 320 square feet each. The two accessory structures combined total is then 640 square feet. Therefore, the combined total of the two accessory structures in question is only 1.2% of the total square footage of the lot or 32% of the 5% allowed without a permit, a total size well under that allowed and well under that of subsection 8. The same is true with respect to subsection 7. The primary structure is cited as 2,331 square feet, 50% of that is 1,165.5 square feet. Thus the accessory structures are well under the size limit of subsection 7 also.

More importantly, the City has simply ignored § 18.05.050 directly referenced in § 18.05.055(7) which patently approves SF1A parcels for accessory structure sizes in excess of 50% of the primary building size. They also ignored the exceptions for SF1A properties specifically cited in § 18.05.055(2) and (3). And, as stated above § 18.04.055 was similarly ignored by the City. Clearly, no violation of § 18.05.055(7) or (8) was possible by application of simple math as these accessory structures as they are well within any applicable size limit.

Finally there is the problem of selective enforcement. At the Commission hearing on the matter, counsel for the Appellant provided photographs and a map indicating 11 other properties in the same neighborhood with cargo containers on the lot. At the planning Commission hearing, the Planning Department indicated they were unaware of these multiple other containers in use in the area and indicated no enforcement action was being taken against them. For the above stated reasons, the appellant contends that the law would not support any enforcement action. However, at the hearing The Planning Commission ignored the arbitrary and capricious enforcement against the Appellant in violation of Nevada Supreme Court precedent. *See City of Las Vegas v. 1017 S. Main Corp.*, 110 Nev. 1227, 1134–35, 885 P.2d 552, 556–57 (1994).

Here the City has chosen to ignore the several laws raised by the Appellant which plainly allow the accessory structures in question. They have impermissibly changed the alleged violation mid-process, from § 18.05.030(1)(b) to § 18.05.055. They have misconstrued CCMC § 18.05.055 in

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order to arrive at an unjust and absurd conclusion. The City lacks the authority to pick and choose which laws it will enforce or to change the meaning of the law as written and its decision should be overturned.

Alleged violation of Carson City Development Standards, § 1.13:

The Carson City Development Standards, also know as Title "18b" or the "Appendix" to Title 18, states in it's opening Sections 1.0 and 1.1 as follows:

> *1.0 - General.*
>
> *These design standards have been prepared to foster quality design of office, **commercial, multi-family, public, industrial and institutional projects** within Carson City. The image of the community affects the economic well being of the city, especially the tourism economy. These standards are aimed at improving the community image.*
>
> ***These standards are intended to inspire** development of lasting quality and designs that enhance the overall community. They are intended to assist the public, developers and design professionals in planning and designing projects. **These standards shall also serve as criteria for design review by city staff,** the planning Commission (Commission), and board of supervisors (board).*
>
> *1.1 - Architectural design.*
>
> ***Office, retail, commercial, public, institutional, industrial and multi-family buildings** and their architecture play a large role in establishing the overall image of the community. In all cases, these standards stress the importance of visually identifying and unifying the community character. These standards do not require a single architectural style; instead an eclectic mixture of harmonious styles are encouraged. Buildings which are 50 years or older within the downtown area must meet the requirements of the downtown business district found in the Carson City Municipal Code.*

Obviously, §§ 1.0 and 1.1 set forth the jurisdictional scope of the Appendix. It is clearly stated that; "*commercial, multi-family, public, industrial and institutional projects*" are the intended subject of the Appendix. Section 1.1 reinforces this conclusion by again reciting that "*Office, retail, commercial, public, institutional, industrial and multi-family buildings*" are the subject of the Appendix. Further, Section 1.0 indicates that these are not binding rules but rather; "*They are intended to **assist** the public, developers and design professionals in planning and designing projects. **These standards shall also serve as criteria for design review by city staff,** the planning Commission (Commission), and board of supervisors (board).*" Use of the word "*assist*" indicates that these are not binding requirements, but rather serve as guidance. This fact may explain why title 18b is added as an "Appendix" rather than being incorporated into title 18 as positive law.

This limited scope of the entirety of the appendix is further reinforced by CCMC § 18.02.025 – Jurisdiction, interpretation and application, which states in relevant part as follows:

> 18.02.025 - Jurisdiction, interpretation and application.
>
> The provisions and standards contained in this title, as well as the standards contained in the development standards shall be deemed to be minimum standards **with which compliance is essential to the permitted uses**, and shall not be construed as limiting the legislative discretion of the board to further restrict the permissive uses or to withhold or revoke permits for uses when the **protection of the public health,**

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> **morals, safety, welfare** and residential neighborhoods is necessary. Title 18 ordinance requirements and corresponding development standards ordinance requirements **shall apply to all properties within Carson City.**

Considering that Title 18 sets forth the scope of its jurisdiction to apply to all properties within Carson City, it is clear that the drafters of the Appendix intended it to be of a limited jurisdictional scope which does not include single-family residential, but does include multi-family residential properties. Were this not the case, the drafters could have simply omitted the §§ 1.0 and 1.1, or reiterated the jurisdictional statement of 18.02.025. But, instead they specifically limited the scope and jurisdiction of the appendix as stated plainly in the law. As such, 18b § 1.13 is not applicable to an SF1A property that has not been granted a special use permit for some other use, e.g. multi-family, or commercial. Therefore, the Appendix does not apply to Appellant's property and the Appellant is justified in relying on the jurisdictional limits set forth in Appendix §§ 1.0 and 1.1.

The Commission and the Planing Department seek to expand the scope of the Appendix beyond is plainly stated jurisdictional limits. They apparently base their expansion of the Appendix § 1.13 to include all single-family residential property because the terms "*CR, A, MH1A, SF5A, SF2A and SF1A districts*" are used in Appendix § 1.13(3) and (5)(b). Perhaps these residential districts are mentioned because the drafters forgot the limited scope of the Appendix previously stated in §§ 1.0 and 1.1, but we are not allowed to presume the drafters made such a mistake nor that they intended to create confusion in the law. Rather, considering these sections in a light most favorable to the City, the drafters of the Appendix recognized that CR, A, MH1A, SF5A, SF2A and SF1A districts may lend themselves well to other uses besides single-family residential and may, on occasion, by way of a special use permit, be used for office, retail, commercial, public, institutional, industrial and multi-family buildings, in which case the guidance of the Appendix may be applied. If not, we have a conflict of law which must be resoved in favor of the Appellant. One thing is certain is that there is no expression anywhere in the CCMC or the Appendix itself of an intent to expand the scope of the Appendix beyond that stated in §§ 1.0 and 1.1.

The scope of a law may not be expanded by agency or Commission fiat. The Nevada Supreme Court has held that zoning ordinances must be enacted for the health safety, morals or general welfare of the community and must bear a **substantial** relationship to those police powers. (see: *Coronet Homes, Inc. v. McKenzie*, 84 Nev. 250, 439 P.2d 219) Neither the Planning Department staff nor the Planning Commission has articulated any nexus between Appendix, § 1.13 and the jurisdictional prerequisites set forth in NRS 278.020, and CCMC § 18.02.015. All zoning is subject to constitutional limitations that it not be unreasonable, arbitrary or capricious. (*Citations too numerous to list*) Indeed, §§ 1.0 and 1.1 indicate that the primary purpose of the Appendix is to regulate taste and appearance which may be a valid application of City police power with respect to commercial, multi-family, public, industrial and institutional projects, but may be held invalid and in excess of the authroity delegated by NRS 278.010 to 278.630, with respect to purely private single-family residential property.

Appellant has demonstrated the arbitrary and capricious nature of the City's action in several ways.

First there is the problem of selective enforcement. At the Commission hearing on the matter, counsel for the Appellant provided photographs and a map indicating 16 other properties in the same neighborhood with fences within the setback zone of § 1.13, and in excess of 4 feet in height. At the planning Commission hearing, the Planning Department indicated they were unaware of these multiple other excessively tall fences in the area and indicated no enforcement action was being taken against them. Again, for the above stated reasons, the appellant contends that the law

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would not support any enforcement action. However, at the hearing The Planning Commission ignored the arbitrary and capricious enforcement of § 1.13 against the Appellant in violation of Nevada Supreme Court precedent. *See City of Las Vegas v. 1017 S. Main Corp.*, 110 Nev. 1227, 1134–35, 885 P.2d 552, 556–57 (1994).

Next we turn to the absurd results of the City's action. According to the planning department's interpretation, complete removal of the metallic split-rail wrought iron panels from between the masonry fence posts, or in the alternative, cutting them down to only one foot in height would bring the fence into compliance with § 1.13. At least 30 different strangers and passers-by have stopped to give unsolicited praise and appreciation for the Appellant's fence. Several have commented that it has improved the property values for the whole block. Complying with the City's arbitrary and capricious demands would compromise the beauty and function of the fence. Lowering the fence as demanded by the City would allow predators such as coyotes, stray dogs, mountain lions, and bears (*all of which have been sighted in this neighborhood*) to easily jump the fence and destroy appellant's livestock. Such a result would be patently contrary to "***standards ... aimed at improving the community image.*** [and] *to* ***inspire*** *development of* ***lasting quality and designs that enhance the overall community.***"

Further, the City has failed to consider the exceptions to the hight limited stated within the Appendix section cited, specifically §§ 1.13(3) and 1.13(5)(b), both of which pertain specifically to SF1A zones, which relate to barbed wire, electric, and split rail fences and have a height limit in excess of 4 feet or no height limit at all. Nothing in § 1.13 would prevent the Appellant from replacing the attractive wrought iron panels, with much less attractive and much less functional barbed wire, electric, or split rail fence panels of similar height. Thus, according to the City's interpretation, we are not allowed to have attractive wrought iron panels, but they must allow the much less attractive barbed wire, electric, or split rail fences. These specific exceptions in § 1.13 suggest the intent of the Appendix to be an assitance to design as stated in §§ 1.0 and 1.1, rather than fixed rules. Here the result demanded by the City is patently contrary to "***standards ... aimed at improving the community image.*** [and] *to* ***inspire*** *development of* ***lasting quality and designs that enhance the overall community.***"

Thus, the result the City seeks is both absurd and contrary to the plainly stated goal of the Appendix. See: *Westpark Owners' Ass'n v. Eighth Judicial Dist. Court ex rel. Cty. of Clark,* 123 Nev. 349, 357, 167 P.3d 421, 427 (2007) (*ordinances and statutes* ***must be construed to "avoid absurd results"***).

For the foregoing reasons and those set forth in the administrative record as of this date, the undersigned appellant hereby gives notice of this appeal. To that end a check in the amount of $250.00 is enclosed herewith to secure said appeal.

Sincerely,

Peter Gibbons, Manager
Equity Management Services, LLC, Trustee
for the Ponderosa EQ Land Trust, Appellant

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DRAFT MINUTES
Regular Meeting
Carson City Planning Commission
Wednesday, March 28, 2018 ● 5:00 PM
Community Center Sierra Room
851 East William Street, Carson City, Nevada

Commission Members

Chair – Mark Sattler
Vice Chair – Charles Borders, Jr.
Commissioner – Paul Esswein
Commissioner – Elyse Monroy
Commissioner – Daniel Salerno
Commissioner – Candace Stowell
Commissioner – Hope Tingle

Staff

Lee Plemel, Community Development Director
Hope Sullivan, Planning Manager
Dan Yu, Deputy District Attorney
Tamar Warren, Deputy Clerk

NOTE: A recording of these proceedings, the board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder's Office, and are available for review during regular business hours.

An audio recording of this meeting is available on www.Carson.org/minutes.

A. ROLL CALL, DETERMINATION OF QUORUM, AND PLEDGE OF ALLEGIANCE

(5:01:40) – Chairperson Sattler called the meeting to order. Roll was called. A quorum was present. Vice Chairperson Borders led the Pledge of Allegiance.

Attendee Name	Status	Arrived/Left
Chairperson Mark Sattler	Present	
Vice Chairperson Charles Borders, Jr.	Present	
Commissioner Paul Esswein	Present	
Commissioner Elyse Monroy	Absent	
Commissioner Daniel Salerno	Present	
Commissioner Candace Stowell	Present	
Commissioner Hope Tingle	Present	

B. PUBLIC COMMENT

(5:02:28) – Chairperson Sattler entertained public comments; however, none were forthcoming.

C. POSSIBLE ACTION ON APPROVAL OF MINUTES – February 28, 2018

(5:03:00) – MOTION: I move to approve the February 28, 2018 meeting minutes.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Borders
SECONDER:	Salerno
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

D. MODIFICATION OF AGENDA

(5:03:16) – Mr. Plemel explained that there were no modifications to the agenda; however, he highlighted the consent agenda portion, noting that should the Commissioners wish to discuss one of the items, it will be pulled from the consent agenda. He also stated that not much had changed in terms of ordinances for billboards; hence, the consent agenda.

E. Consent Agenda Items

(5:03:54) – Chairperson Sattler entertained a motion.

(5:03:57) – MOTION: I move to approve the consent agenda.

(5:04:30) – Commissioner Borders requested adding the age of the billboards and whether they comply with current rules in the future. Mr. Plemel clarified that all billboards were brought up to current standards; however, he offered to include that information for future approvals. There were no additional comments and Chairperson Sattler called for the vote.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Tingle
SECONDER:	Salerno
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

E.1 SUP-18-018 FOR POSSIBLE ACTION – TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED RETAIL COMMERCIAL (RC), LOCATED AT 3590 NORTH CARSON STREET, APN 007-462-03.

E.2 SUP-18-022 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL INDUSTRIAL (GI), LOCATED AT 5740 HIGHWAY 50 EAST, APN 008-391-07.

E.3 SUP-18-023 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 4769 SOUTH CARSON STREET, APN 009-287-02.

E.4 SUP-18-024 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 1991 EAST WILLIAM STREET, APN 008-152-22.

E.5 SUP-18-025 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL INDUSTRIAL (GI), LOCATED AT 6369 HIGHWAY 50 EAST, APN 008-522-11.

E.6 SUP-18-026 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 497 WEST BENNETT AVENUE, APN 009-301-05.

E.7 SUP-18-028 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 4900 SOUTH CARSON STREET, APN 009-284-01.

E.8 SUP-18-029 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 5100 SOUTH CARSON STREET, APN 009-301-06.

END OF CONSENT AGENDA

OTHER ITEMS:

F. ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME.

No items were pulled from the consent agenda.

G. PUBLIC HEARING MATTERS

G.1 SUP-18-031 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A FENCE TO EXCEED THE HEIGHT LIMITATION ON PROPERTY ZONED SINGLE FAMILY ONE ACRE (SF1A), LOCATED AT 4031 CENTER DRIVE, APN 009-142-11.

(5:05:46) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions from the commissioners.

(5:09:44) – Applicants Krista and Lawrence Leach introduced themselves and stated their acceptance of the conditions of approval outlined by Ms. Sullivan and in the Staff Report. Commissioner Salerno cautioned against building a fence that may not withstand Carson City winds and Ms. Leach indicated that they had planned for such wind. There were no public comments. Chairperson Sattler entertained a motion. Commissioner Stowell noted a correction to the suggestion motion.

(5:11:17) – MOTION: I move to approve SUP-18-031, a Special Use Permit request to allow an increase in the permitted fence height in the street side yard from three feet to six feet, on property zoned Single Family One Acre, located at 4031 Center Drive, APN 009-142-11, based on findings in the conditions of approval contained in the Staff Report.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Stowell
SECONDER:	Tingle
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

G.2 SUP-17-217 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO CONSTRUCT A DETACHED GARAGE THAT RESULTS IN ACCESSORY STRUCTURES THAT EXCEED FIVE PERCENT OF THE LOT AREA AND EXCEEDS 50 PERCENT, BUT NOT MORE THAN 75 PERCENT, OF THE SIZE OF THE PRIMARY STRUCTURE, ON PROPERTY ZONED CONSERVATION RESERVE, LOCATED AT 5371 CORRINNE CT, APN 008-816-21.

(5:12:19) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report which is incorporated into the record and responded to clarifying questions.

(5:15:28) – Applicant Robert Hopkins introduced himself and confirmed his agreement with the conditions of approvals outlined in the Staff Report. Mr. Hopkins also clarified for Vice Chair Borders that after meeting with neighbors, the immediately adjacent neighbors would no longer wish to block the project. There were no public comments; therefore, Chairperson Sattler entertained a motion.

(5:16:59) – MOTION: I move to approve SUP-17-217 a request for a Special Use Permit to allow a 2,600 square foot detached accessory structure and allow the accessory structures on site to exceed five percent of the parcel size, on property zoned Conservation Reserve, located at 5371 Corrinne Ct., APN 008-816-21, based on findings and subject to the conditions of approval contained in the Staff Report.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Salerno
SECONDER:	Esswein
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

G.3 SUP-15-079-02 – FOR POSSIBLE ACTION: TO CONSIDER A REQUEST FOR A REVISION TO A SPECIAL USE PERMIT FOR AN ACCESSORY STRUCTURE THAT EXCEEDS 75 PERCENT OF THE SIZE OF THE PRIMARY BUILDING, SPECIFICALLY REVISING CONDITIONS OF APPROVAL RELATIVE TO A REQUIREMENT FOR LANDSCAPING TO SCREEN THE STRUCTURE FROM THE STREET AND ADJACENT PROPERTIES, A SIZE LIMITATION OF 1200 SQUARE FEET FOR THE ACCESSORY STRUCTURE, A REQUIREMENT FOR REMOVAL OF TWO SHED STRUCTURES, AND A REQUIREMENT THAT UNREGISTERED AND INOPERABLE VEHICLES NOT BE STORED OUTSIDE THE STRUCTURE. THE PROPERTY IS ZONED SINGLE FAMILY ONE ACRE (SF1A), AND LOCATED AT 4589 SILVER SAGE DRIVE, APN 009-176-05.

(5:18:05) – Chairperson Sattler introduced the item. Ms. Sullivan presented the agenda materials which are incorporated into the record and responded to clarifying questions.

(5:23:08) – Jason McIntosh introduced himself and indicated that he would accept the recommended conditions of approval as written. Ms. Sullivan noted that the applicant would use landscaping as a screening device; however, additional fencing would be proposed to mitigate the gaps in the fence. Mr. McIntosh confirmed that a six-foot tall fence will be built on the south side of the property, per code, and a three-foot fence around the rest of the front of the property. Additionally, Mr. McIntosh informed the Commission that a gate will be built along with a 20-foot long fence "north to south at the driveway". Chairperson Sattler received confirmation that the house did not have a garage at this time. Discussion ensued regarding vintage vehicles and Mr. McIntosh stated that four of his vehicles did not fall under that category; therefore, those cars would need to be housed first. Commissioner Stowell wished to see "fencing all the way around" and Mr. McIntosh explained that he planned to complete the fencing by the end of the summer. Vice Chair Borders inquired about a firm completion date for the fencing and Ms. Sullivan noted that the fence should be completed prior to obtaining a certificate of occupancy for the building. Chairperson Sattler entertained public comments.

PUBLIC COMMENT

(5:29:37) – Debbie Hanner introduced herself and noted that her mother lived "two houses away" and that she lived next door to her mother. Ms. Hanner stated that there currently were 19 cars on the property, all of which would not fit in the proposed shed and that the cars were visible, calling it "an eyesore for the neighborhood".

(5:30:44) – John McIntosh introduced himself as the applicant's father and noted that the project was "not objected by all the neighbors" and referenced the supporting letters received from neighbors, and incorporated into the record. He also disagreed that the property was an eyesore. There were no additional comments. Chairperson Sattler entertained a motion.

(5:33:35) – MOTION: I move to approve SUP-15-079-02, Special Use Permit request to allow the cumulative square footage of accessory structures on the property to exceed 75 percent of the size of the main residence on property zoned Single Family One Acre, located at 4589 Silver Sage Drive, APN 009-176-05 based on findings and conditions of approval contained in the Staff Report, with an additional condition, number twelve, to require six-foot, opaque fencing around the property where the cars are located to be in place before the certificate of occupancy is issued for the accessory structure.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Stowell
SECONDER:	Esswein
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

G.4 TSM-17-184 – FOR POSSIBLE ACTION: TO MAKE A RECOMMENDATION TO THE BOARD OF SUPERVISORS REGARDING A TENTATIVE SUBDIVISION MAP APPLICATION FROM BLACKSTONE DEVELOPMENT GROUP INC. TO CREATE A 209 LOT SUBDIVISION ON APPROXIMATELY 58.5 ACRES WITHIN THE LOMPA RANCH NORTH SPECIFIC PLAN AREA ON

PROPERTY APPROVED FOR SINGLE FAMILY 6000 (SF6) ZONING, LOCATED AT 2200 E. FIFTH STREET, APN 010-041-71.

(5:34:50) – Chairperson Sattler introduced the item. Ms. Sullivan recommended continuing this item to the April 25, 2018 Planning Commission meeting, as requested by the applicant.

(5:35:37) – I move to continue item [G-4] TSM-17-184 to the Planning Commission meeting of April 25, 2018.

RESULT:	**APPROVED (6-0-0)**
MOVER:	Borders
SECONDER:	Salerno
AYES:	Sattler, Borders, Esswein, Salerno, Stowell, Tingle
NAYS:	None
ABSTENTIONS:	None
ABSENT:	Monroy

G.5 ZCA-18-032 – FOR POSSIBLE ACTION: TO MAKE A RECOMMENDATION TO THE BOARD OF SUPERVISORS REGARDING AN ORDINANCE RELATING TO MARIJUANA; AMENDING TITLE 18 (ZONING), APPENDIX A (DEVELOPMENT STANDARDS), DIVISION 1.20 (MEDICAL MARIJUANA ESTABLISHMENTS AND MARIJUANA ESTABLISHMENTS) OF THE CARSON CITY MUNICIPAL CODE TO AMEND AND CLARIFY REGULATIONS GOVERNING SIGNAGE FOR MEDICAL MARIJUANA ESTABLISHMENTS AND MARIJUANA ESTABLISHMENTS.

(5:36:20) – Chairperson Sattler introduced the item. Mr. Plemel presented the agenda materials incorporated into the record and responded to clarifying questions. He also clarified for Chairperson Sattler that businesses may have temporary banners for 30 days within a 90-day period, adding that there are size limitations. Commissioner Stowell was informed that marijuana businesses were "limited in freestanding sign area". Vice Chair Borders inquired about the size of the signage and Mr. Plemel explained that businesses may choose to have a 30 square foot sign or divide it into two 15 square foot signs. Commissioner Tingle received clarification that "sandwich board" type signs were currently prohibited per code, including those hand held ones by individuals. Chairperson Sattler entertained public comments.

PUBLIC COMMENT

(5:49:15) – Will Adler, executive director of the Sierra Cannabis Coalition, explained that a business had marketed via "sign spinning" which had been deemed a violation and was not thought of as "professional or in a pharmaceutical manner" in Southern Nevada. Mr. Adler also noted his support to the clarification of the signage rules, calling it a positive change and more clarity on what can and cannot be done. Chairperson Sattler entertained additional comments, and when none were forthcoming, a motion.

(5:51:24) – I move to recommend to the Board of Supervisors approval of an ordinance amending Title 18 Appendix, Development Standards Division 1.20 related to signage for marijuana establishments as published on the Agenda.

RESULT:	**APPROVED (5-1-0)**
MOVER:	Tingle
SECONDER:	Borders
AYES:	Sattler, Borders, Esswein, Stowell, Tingle
NAYS:	Salerno
ABSTENTIONS:	None
ABSENT:	Monroy

G.6 MISC-18-038 – FOR POSSIBLE ACTION: CONSIDERATION OF AN APPEAL OF THE STAFF'S INTERPRETATION AND APPLICATION OF SECTION 1.13 OF THE DEVELOPMENT STANDARDS CONCERNING FENCING, AND 18.05.055 OF THE MUNICIPAL CODE REGARDING ACCESSORY STRUCTURES.

(5:52:05) – Chairperson Sattler introduced the item and outlined the hearing process, noting that Staff would present first and answer questions, followed by a presentation by the appellant who will also answer questions. After clarifications by the appellant and Staff, public comments will be heard, followed by discussion and decision by the Commission

(5:53:17) – Ms. Sullivan presented the Staff Report, which is incorporated into the record and responded to clarifying questions by the Commission. Mr. Plemel clarified that a complaint had been submitted to the City's code enforcement department, and a case was opened on March 7, 2016 and Ms. Sullivan noted that this issue could be remedied by obtaining a Special Use Permit. She also stated that late materials were distributed prior to the start of the meeting; however, they had not been reviewed by her yet.

(5:59:55) – Kevin Benson introduced himself as the attorney representing appellant Peter Gibbons, Manager of Equity Management Services, LLC, who was also present. Mr. Benson gave background, incorporated into the record, on the fence and noted that his client had not received any violation notices prior to completion of the fence. He also stated that a dispute between Mr. Gibbons and his neighbors regarding an abandoned road had resulted in a lawsuit in early 2017. Mr. Benson gave background on the storage containers on the property as well and indicated that his client had not received the notices of violation for the fence and the storage containers until January 2018, and referenced the objection letters by Mr. Gibbons, incorporated into the record. Mr. Benson believed that per the enclosed photograph, the fence was measured by Staff "from the adjacent grade of the fence" and not "from the street grade" which would make the fence "at most five-and-a-half feet". He also cited design standards from the Development Code, an appendix from Title 18, and provided photographs, incorporated into the late materials, of violations in other nearby neighborhoods, asking for "a little bit of reasonableness" and to reverse Staff's decision.

(6:23:42) – Commissioner Stowell inquired about where, if not in the Development Standards, will fences be regulated and Mr. Benson believed that "the Commission would need to amend the code to make it clear that these do in fact apply to single-family residential". Chairperson Sattler explained that in the past, the Commission had approved a wire fence and its decisions were separate from Staff's. He also noted that the Commission's decision may be appealed to the Board of Supervisors, adding that a Special Use Permit could also be approved by the Commission. Mr. Benson indicated that none of the other properties he had shown had obtained a Special Use Permit (SUP), which he called a costly and difficult process. Chairperson Sattler reiterated that the SUP could have been a good solution. Commissioner Tingle stated that after seeing photographs provided by the

appellant, she did not believe that an SUP should be required, unless all the other property owners undergo the same process. Mr. Plemel stated that the Code Enforcement handles violations when they are brought to their attention, and that he was not certain whether SUPs were issued for any of the properties shown in the photographs. Mr. Benson believed that the SUP process was expensive and it involved engineering fees for correct measurements. Discussion ensued regarding the complaint which had resulted in this discussion.

(6:34:53) – Appellant Peter Gibbons introduced himself as the Manager of Equity Management Service, the trustee of the Ponderosa EQ Land Trust, property owner. He also gave background on the abandonments and easements in the area, and the related lawsuit, noting that he had received many compliments on the fence. He also believed that storage containers were efficient and less costly, calling the entire process unfair.

(6:45:10) – Commissioner Esswein noted his agreement to Staff's interpretation of the code; however, he also agreed with the appellant and believed that "for us to require you to do something other than what you've done with your fence would be totally unreasonable on our part". He suggested revising the code to be clearer and stated that he would vote against the Staff's recommendation. Ms. Sullivan wished to see Staff provide further clarification prior to a vote.

(6:47:05) – Deputy District Attorney Dan Yu indicated that he had "skimmed through" the late materials provided by the appellant prior to the start of this meeting; however, he cautioned that his comments are not meant to influence the Commission's decision. Mr. Yu clarified that the City had been named a defendant in the previously mentioned lawsuit "because one of the types of relief that was requested in that lawsuit pertained to a request for declaratory relief". Mr. Yu cautioned against drawing any inferences from mentioning the lawsuit. He also noted that he wasn't certain the "equal protection" cited by the appellant was binding in Nevada, as his research was preliminary based on the late material. Mr. Yu disagreed with the appellant's position 'that by reading the prefatory provision in the Appendix [Division 1 to Title 18] that a person of reasonable or ordinary intelligence would not be able to decipher that the rest of the contextual provisions do apply to residential use districts". Mr. Yu also acknowledged the willingness of Staff to work with the appellant instead of "issuing a red tag or a notice of violation document".

(6:56:10) – Ms. Sullivan noted that she had complimented the fence in August 2016, in addition to others Mr. Gibbons had received. She also noted that after a conversation with the appellant, she had been under the impression that he would apply for an SUP. Ms. Sullivan clarified that the intent of a letter sent to Mr. Gibbons was not a final notice of code violation. She believed that responses received from Mr. Gibbons to letters by, Assistant Planner Kathe Green indicated that "there was a disagreement in how the code was being applied"; therefore, she had given Mr. Gibbons an opportunity to appeal. She also stated for the record that she had no previous knowledge of the easement lawsuit.

(6:59:12) – Chairperson Sattler entertained public comments; however, none were forthcoming.

(6:59:27) – Mr. Benson apologized for their interpretation of Ms. Sullivan's letter and appreciated her offer to appeal. He believed that Mr. Gibbons "has a different takeaway from that conversation in August", and noted that there were two other visits by the City for other reasons, which had not indicated a code violation pertaining to the fence. He also reiterated his reasons why the Commission should vote against Staff's recommendation. Vice Chair Borders was informed that the storage containers had a roof, not attached to the façade. Commissioner Stowell noted her support to Staff's interpretation, adding that "everybody has to go through the permit process" either before or after beginning construction. She believed that the cited section of code has always been

pertinent for "all districts of 1.13" and that it applied to all residential structures, regardless of the structure's beauty. Commissioner Salerno stated his agreement with Commissioner Stowell's comments. He believed that the SUP process "would solve this problem very easily" without the dollars spent on legal fees. Vice Chair Borders referenced the appellant's map that showed code violations and believed "there's no way…there aren't some SUPs in there". He also believed that a gas meter inspector would not "question a wall" because that was not he or she was tasked to do, adding that an SUP would "solve all these problems". Chairperson Sattler entertained a motion.

(7:12:05) – I move to affirm the Staff's interpretation and application of Section 1.13 of the Development Standards concerning fencing.

(7:12:17) – I move to affirm the Staff's interpretation and application of Carson City Municipal Code 18.05.055 regarding accessory structures.

RESULT:	**APPROVED (4-2-0)**
MOVER:	Stowell
SECONDER:	Salerno
AYES:	Sattler, Borders, Salerno, Stowell
NAYS:	Esswein, Tingle
ABSTENTIONS:	None
ABSENT:	Monroy

(7:13:05) – Ms. Sullivan suggested having Commissioners Esswein and Tingle state their reasons for opposing the motion, should the appeal be heard by the Board of Supervisors. Commissioner Esswein stated that he had done so earlier. Commissioner Tingle stated that the evidence presented by Mr. Benson "the pictures of the fences and the storage containers, and I would hazard a guess, and this is just a guess, that not every one of those owners of those fences got SUPs for those fences, and I understand code enforcement is challenged in staffing…but the length of time that it took for the whole process to unfold to the point where Mr. Gibbons filed his appeal, I believe that is a little bit unreasonable for Mr. Gibbons to have thought that there's still a problem here." She also indicated that she did not want to see that fence torn down.

H. Staff Reports (non-action items)

H.1 - DIRECTOR'S REPORT TO THE COMMISSION.

(7:15:25) – Mr. Plemel noted that next meeting's agenda would include an SUP for a multi-family apartments in a Commercial zoning and the tentative subdivision map that was continued from this meeting.

- FUTURE AGENDA ITEMS.

- COMMISSIONER REPORTS/COMMENTS.

(7:15:57) – Commissioner Tingle inquired about an area being cleared on Curry Street near the Railroad Museum. Mr. Plemel noted that no permit had been received yet for that property; however, he offered to look into it and respond to Commissioner Tingle. Chairperson Sattler received confirmation that a next step for Item G-6 could be an appeal to the Board of Supervisors.

I. PUBLIC COMMENT

No public was present for comments.

J. FOR POSSIBLE ACTION: ADJOURNMENT

(7:18:10) – Vice Chair Borders moved to adjourn. The motion was seconded by Commissioner Salerno. Chairperson Sattler adjourned the meeting at 7:18 p.m.

The Minutes of the March 28, 2018 Carson City Planning Commission meeting are so approved this 30th day of May, 2018.

_____

MARK SATTLER, Chair

STAFF REPORT FOR PLANNING COMMISSION MEETING OF MARCH 28, 2018

FILE NO: MISC-18-038 **AGENDA ITEM:** G-6

STAFF CONTACT: Hope Sullivan, Planning Manager

AGENDA TITLE: For Possible Action: To consider an appeal of the staff's interpretation and application of Section 1.13 of the Development Standards concerning fencing, and 18.05.055 of the Municipal Code regarding accessory structures.

STAFF SUMMARY: *Carson City Municipal Code Section 18.02.060 allows for an administrative decision of the Director to be appealed by the applicant or any aggrieved party to the Planning Commission. The appellant is appealing staff's interpretation and application of regulations concerning fencing, and regulations concerning accessory structures.*

PROPOSED MOTION: "I move to (AFFIRM / MODIFY / REVERSE) the staff's interpretation and application of Section 1.13 of the Development Standards concerning fencing."

PROPOSED MOTION: "I move to (AFFIRM / MODIFY / REVERSE) the staff's interpretation and application of Carson City Municipal Code 18.05.055 regarding accessory structures."

LEGAL REQUIREMENTS: CCMC 18.02.060 (Appeals), 18.04.055 (Single Family One Acre), 18.05.050 (Accessory Farm Structures), 18.05.055 (Accessory Structures), 18.16 (Development Standards)

PROCEDURAL MATTERS

CCMC 18.02.020 assigns the administration of Title 18: Zoning to the Community Development Director. Per the provisions of this code section, the term "Director" means the Director of the Planning and Community Development Department or the Director's designee.

CCMC 18.02.060.1 states "An administrative decision of the Director may be appealed by the applicant or any aggrieved party to the Commission." The Commission may affirm, modify or reverse the decision.

The subject request is an appeal of the Planning Manager's interpretation and application of portions of Title 18 as described in her letter dated February 5, 2018.

BACKGROUND

On March 7, 2016, the City's Code Enforcement Division received a report that a wall was being constructed on property located at 3809 Ponderosa Drive.

In December 2017, it came to the staff's attention that metal storage containers were being stored on site.

On December 29, 2017 the Assistant Planner sent a Notice of Violation: Order to Comply for both the fence and the storage containers.

On January 18, 2018, the Assistant Planner sent a second Notice of Violation: Order to Comply for the fence as an application for a Special Use Permit had not been received.

On January 23, 2018, the property owner responded to the Assistant Planner's letters of December 29, 2017.

In reading the January 23, 2018 letters, the Planning Manager ascertained that the property owner was challenging the staff's interpretation and application of the code. Therefore, to provide for due process, the Planning Manager wrote a letter on February 5, 2018 outlining the staff interpretation and code application. In addition to seeking to clarify the staff's interpretation, the letter was also written to provide the property owner with an opportunity to appeal the staff's interpretation and application of the code.

On February 15, 2018, the property owner submitted a letter appealing the staff's interpretation and application of the code to the Planning Commission.

APPLICABLE CODE PROVISIONS
The applicable code provisions, which are included as attachments to this report, are as follows.

CCMC 18.03.010: Words and Terms Defined: Accessory Building or Accessory Structure
CCMC 18.03.010: Words and Terms Defined: Accessory Farm Structure or Accessory Farm Building
CCMC 18.04.055: Single Family 1 Acre (SF1A)
CCMC 18.05.030: Trailers, Mobilehomes, Recreational Vehicles, Commercial Coaches and Storage Containers (applicable section is subsection 1).
CCMC 18.05.050: Accessory Farm Structures
CCMC 18.05.055: Accessory Structures
CCMC 18.16: Development Standards
Development Standards Division 1: Land Use and Site Design

DISCUSSION:
As noted in the Planning Manager's letter of February 5, 2018, the main areas for review include fence regulations, storage containers, and accessory buildings.

Fences
The applicant has constructed a wall / fence in the front setback consisting of the three foot tall wall with a three foot wrought iron section mounted on top of it, for a total height of six feet. Photographs are included as Attachment 1.

Development Standards 1.13.5.a states:

5. A fence, wall or hedge not exceeding six feet in height may be located within any yard except as follows:
a. No fences, walls or hedges exceeding four feet in height shall be permitted within a front yard setback or within five feet of the property line on the street side. When such fence is constructed of a sight obscuring material, it shall not exceed three feet in height; and

The appellant has challenged the applicability of this provision based on the following sentence that appears under the heading General on page 1 of Division 1 of the Development Standards.

These design standards have been prepared to foster quality design of office, commercial, multi-family, public, industrial and institutions projects within Carson City.

As the above sentence does not mention single family residential, the appellant is questioning if the fencing regulations apply to single family residential uses.

The fence regulations of the Development Standards have been applied to single family residential development since their adoption. Subsections 3, and 5b make specific reference to residential zoning districts, including the SF1A zoning district. Furthermore, the noted paragraph is not an applicability statement, it merely states the primary purpose for adopting the standards.

Staff has advised the property owner that in order to retain the existing fence, consistent with 1.13 of the Development Standards, a Special Use Permit would be required.

Storage Containers

The property owner has storage containers on his property, and has built structures to house those containers. Photographs of the storage containers are included in Attachment 2.

CCMC 18.05.030.1.b prohibits tents, trains, boxcars, semi-truck trailers, passenger coaches, buses, streetcar bodies or similar enclosures in residential zoning districts.

Accessory Buildings

The property owner has constructed structures to house the storage containers that aree on his property. Buildings that exceed 120 square feet require a building permit.

Additionally, CCMC Section 18.05.055 includes the City's regulations regarding Accessory Structures. Subsection 7 discusses the cumulative square footage of the accessory buildings as a percentage of the primary building, and identifies the procedural requirements based on the percentage. If the cumulative area of the accessory buildings is more than 50 percent and not greater than 75 percent of the size of the primary building, an administrative permit is required. If the cumulative square footage of the accessory buildings is more than 75 percent of the size of the primary structure, a Special Use Permit is required.

Subsection 8 notes that accessory structures shall not exceed 5 percent of the parcel size on parcels 21,000 square feet or larger unless the property owner obtains a Special Use Permit.

The appellant is challenging the applicability of these code provisions to this property.

Attachments

1. Photographs of the Fence
2. Photographs of Accessory Buildings and Storage Container
3. February 5, 2018 Letter to Mr. Peter Gibbons from Planning Manager Hope Sullivan
4. February 15, 2018 Letter to Carson City Planning Division from Mr. Peter Gibbons.
5. January 18, 2018 Notice of Violation: Order to Comply Regarding a Wall / Fencing at 3809 Ponderosa Drive.
6. December 29, 2017 Notice of Violation: Order to Comply Regarding a Wall / Fencing at 3809 Ponderosa Drive.
7. December 29, 2017 Notice of Violation : Order to Comply Regarding Storage Containers at 3809 Ponderosa Drive.
8. March 8, 2018 Memo from Lee Plemel, Community Development Director Regarding Applicability of Title 18 Development Standards to Single Family Parcels.
9. CCMC 18.03.010: Words and Terms Defined: Accessory Building or Accessory Structure
10. CCMC 18.03.010: Words and Terms Defined: Accessory Farm Structure or Accessory Farm Building
11. CCMC 18.04.055: Single Family 1 Acre (SF1A)

12. CCMC 18.05.030: Trailers, Mobilehomes, Recreational Vehicles, Commercial Coaches and Storage Containers
13. CCMC 18.05.050: Accessory Farm Structures
14. CCMC 18.05.055: Accessory Structures
15. CCMC 18.16: Development Standards
16. Development Standards Division 1: Land Use and Site Design


03/15/2018
09:44


03/15/2018
09:44


01/16/2018
15:08

Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

February 5, 2018

Mr. Peter Gibbons, Manager
Equity Management Services, LLC
1805 North Carson Street, Suite N
Carson City, NV 89701-1216

RE: 3809 Ponderosa Drive, Carson City

Dear Mr. Gibbons:

I am in receipt of your letters of January 23, 2018 to Assistant Planner Kathe Green concerning the fence and storage containers at the above referenced property. In reading your letters, it appears that you disagree with the staff's interpretation of the code in terms of its applicability to the improvements at the above referenced property.

The purpose of this letter is to formally advise you of the staff's interpretation and application of the Municipal Code vis-à-vis the improvements at the above referenced property. Consistent with Section 18.02.060 of the Carson City Municipal Code, the staff's decision may be appealed to the Planning Commission. The appeal must be submitted within ten days of the date of the decision. The Commission may affirm, modify, or reverse the staff's decision. The fee for filing an appeal is $250.

Fence

Division 1: Land Use and Site Design of the City's Development Standards does apply for single family homes. By way of example, Section 1.4: Guest Building Development identifies a guest building as a dwelling unit on the same lot as the primary dwelling unit and ancillary to it, and Section 1.6 includes requirements that a child care facility may only be established as an accessory use to the residential use of the structure, and the residence must be occupied by the operator as a primary residence. The interpretation of the applicability of the various portions of the Division has been consistently applied in practice since its initial adoption in 2002.

Section 1.13 of the Development Standards provides for the fence regulations. Given the design of the fence, masonry and wrought iron mounted to it, staff finds Section 1.13.5.a to be applicable:

"No fences or walls or hedges exceeding four feet in height shall be permitted within a front yard setback or within five feet of the property line on the street side. When such fence is constructed of a sight-obscuring material, it shall not exceed three feet in height."

The subject fence is comprised of a three foot high masonry section, with a three foot wrought iron fence section mounted on top of it, for a total height of six feet, thus exceeding the height limitation.

Staff does not find sections of the fence code that address barbed fences or split rail fencing to be applicable as the fence does not have barbed wire, and is not a split rail fence.

Consistent with Section 1.13.7 of the Development Standards, fences in excess of ordinance requirements may be allowed upon issuance of a Special Use Permit. The staff does not have the authority to issue a Special Use Permit. Only the Planning Commission has that authority.

To come into compliance with the code, either reduce the height of the fence or obtain a Special Use Permit.

Storage Containers

Section 18.05.030.1.b of the Municipal Code prohibits tents, trains, boxcars, semi-truck trailers, passenger coaches, buses, streetcar bodies or similar enclosures in residential zoning districts.

Staff has observed that structures similar to cargo containers have been placed on your property. These structures have been enclosed with walls and roof structures, resulting in the cargo containers essentially being house within a building.

Staff has verified that no building permits have been issued for the structures that house the cargo containers. The building official has looked at the submitted photographs, and opined that the structures, as constructed, will not meet building code.

If these structures could be permitted under building code and be considered accessory structures, Section 18.05.055 of the Municipal Code would apply. Subsection 7 states:

"The cumulative square footage of the accessory buildings or accessory structures is limited to 50 percent of the total square footage of the primary building excluding the basement. If the cumulative square footage of the accessory building(s) or accessory structures is more than 50 percent and not greater than 75 percent of the total square footage of the primary building excluding the basement approval by Administrative Permit is required. If the cumulative square footage of the accessory building(s) or accessory structure(s) exceeds 75 percent of the total square footage of the primary building excluding the basement approval by Special Use Permit is required…."

Subsection 8 states:

"Accessory structure(s) shall not exceed 5 percent of the parcel size on parcels 21,000 square feet or larger, unless approval prior to issuance of a building permit by Special Use Permit."

Per the Assessor's Records, the residence size is 2,331 square feet, and the lot is 39,617 square feet.

As building permits for these accessory building have not been obtained, please apply for a building permit for any buildings in excess of 120 square feet. Buildings less than 120 square feet are exempt from the building code. As part of the building permit application, please submit a site plan that clearly identifies the square footage of each accessory structure so that compliance with Section 18.05.055 of the Municipal Code can be determined.

Please complete the following by February 20, 2018. Note this due date takes precedence over the deadlines provided in Ms. Green's letter of December 29, 2017.

1. Either modify the fence to comply with the height limitations, or submit a complete application for a Special Use Permit with the associated fee; and
2. Remove any cargo containers from the site that are not housed in another building; and
3. Obtain building permits for all unpermitted buildings that are more than 120 square feet. The building permit application must include a site plan showing the size of each accessory structure.

If you do not agree with my interpretation and application of the code, you may submit and appeal of my interpretation along with the $250 appeal fee by close of business February 15.

Staff would like to work cooperatively with you to resolve these matters. Please do not hesitate to call me directly at 283-7922 if you would like any clarification or any additional information.

Sincerely,

Hope Sullivan, AICP
Planning Manager

Equity Management Services

Asset Management Services

February 15, 2018

Via Certified United States Mail

Carson City Planning Division
108 East Proctor Street
Carson City, NV 89701

Attn: City Planning Commission

Re: Final decision of Hope Sullivan, Planning Manager, dated February 5, 2018.

Continued Notice and Demand for Withdrawal of Notices of Violation and Orders to Comply, Dated December 29, 2017, Rebuttal to Planning Decision of February 5, 2018, And Notice of Appeal pursuant to CCMC 18.02.060

We are in receipt of Hope Sullivan's (*hereinafter "Sullivan"*) letter of decision dated February 5, 2018. This Notice is to further elaborate on her gross errors of law and fact contained therein and to reiterate our demand that your department withdraw their original Notices of Violation and to appeal her decision letter of February 5.

Given the scope of the issues, and for the sake of continuity, I will attempt to address items in the order presented in her letter.

Please be advised that both of my letters to Kathe Green, dated January 23, 2018, regarding the "*Wall/Fence*" and regarding the "*Storage Containers*" are incorporated herein by reference as though fully set forth herein.

Further, be advised that in the entirety of Sullivan's letter she failed to state any rational nexus between the ordinances in question and the jurisdictional prerequisites set forth in NRS 278.020, and Carson City Municipal Code (*hereinafter "CCMC")* § 18.02.015. By this rather important omission she tacitly admits that there is none. Given that neither of the citations have any rational nexus to the "***health, safety, morals, or the general welfare of the community,***" or "***to promote the health, safety and general welfare of Carson City's citizens***" both regulations are void, ab initio, regardless of any other facts relevant to the issue. However, in order to preserve all of our defenses and counter-claims for trial, I will rebut each of her positions, item by item.

Fence – Part A - Jurisdiction

Sullivan asserts that: "*Division 1: Land Use and Site Design of the City's Development Standards does apply for single family homes. By way of example, ...*" She cites §§ 1.4 and 1.6 within Division 1 of Title 18b of the CCMC, as examples of residential uses being contemplated in Division 1 of Title 18b. As set forth below, these examples do not demonstrate that Division 1 of Title 18b applies as to single family homes.

Section 1.0 - General, of Division 1, specifically states that the standards contained therein are intended to affect only "*office, commercial, multi-family, public, industrial and institutional projects.*" Under the rules of statutory construction that have been part of American jurisprudence for centuries, it must be presumed the drafters of the law in question meant what they said. This is

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called the "*plain meaning*" rule. See, e.g., McKay v. Bd. of Sup'rs of Carson City, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986).

Section 1.0 can be construed in no other way than specifying the scope of Division 1 of Title 18b. The CCMC is very clear that the drafters intended Division 1 not apply to single family residential properties of any size[1[1]].

There is however, a clear conflict between §§ 1.4 and 1.6 of Division 1 and § 1.0 of Division 1. When a conflict in statutes or ordinances is apparent, it is incumbent on the governing body to construe the conflicting provisions "*in a manner to avoid conflict and promote harmony.*" Beazer Homes Nevada, Inc. v. Eighth Judicial Dist. Court ex rel. Cty. of Clark, 120 Nev. 575, 587, 97 P.3d 1132, 1140 (2004). The only way to rationally harmonize these provisions is to construe the sections that specifically reference single family residential properties as being exceptions to the general rule provided in § 1.0, that Division 1 is applicable only to "*office, commercial, multi-family, public, industrial and institutional projects*." If not construed in such a manner, section 1.0's reference to certain kinds of property is rendered completely meaningless. Leven v. Frey, 123 Nev. 399, 405, 168 P.3d 712, 716 (2007) ("*[S]tatutory interpretation should not render any part of a statute meaningless . . . .*").

If § 1.0's scope provision is not given meaning, and all of Division 1 is applied against single family residential properties, this would result in Division 1 requirements being void for vagueness. Silvar v. Eighth Judicial Dist. Court ex rel. Cty. of Clark, 122 Nev. 289, 293, 129 P.3d 682, 684 (2006) ("*The void-for-vagueness doctrine is predicated upon a statute's repugnancy to the Due Process Clause of the Fourteenth Amendment to the United States Constitution.*"). "*An ordinance may be struck under the vagueness doctrine's first prong if it does not provide adequate notice to the public of the prohibited conduct.*" *Id.* The Ponderosa EQ Land Trust (*hereinafter "Ponderosa"*) reasonably relied on § 1.0 in determining that § 1.13 was not applicable to the Ponderosa property. Given the conflicting provisions, no reasonable person could have notice of prohibited conduct.

The mere fact that your department has been violating the fundamental rights of its citizens by attempting to apply void or inapplicable ordinances for over a decade merely suggests that your department should pay damages and restitution to the aggrieved citizens, but it in no way makes a void or inapplicable law valid and enforceable. Rather it is an admission of systematic and routine civil rights violations ostensibly to raise money through permitting fees and exorbitant and abusive "*Special Use Permit*" application fees. Such behavior arguably may rise to the level of racketeering under federal law. But even if such a claim may seem far-fetched, routine abuse is certainly not an argument that supports the validity of conflicting laws.

The point here, is that the law must be comprehensible to a man of ordinary intelligence. Title 18b § 1.0 specifically states the classes of properties to which it is applicable, and that scope may not be expanded by inference or example of conflicting language in its various subsections. Thus, the entirety of CCMC title 18b is not applicable to the SF1A property owned by Ponderosa, or in the alternative, it is void. It appears evident that the entirety of Title 18b is also void for other constitutional reasons, as shall be discussed in more detail below.

To find that 18b does apply to an SF1A property requires us to speculate on the reasons why the various sections of the code are in conflict. We, the victims of such confusion are not required to speculate and any resolution of the conflict(s) must be resolved in favor of citizen and in favor of the protection of the fundamental rights of the citizen. Therefore, absent a special use of single-family residential property, Title 18b states on its face that it does not and cannot apply to an SF1A

1 CCMC 18.02.025 does not apply pursuant to subsection 2, because it is inconsistent with the express language of Section 1.0 - General, of Division 1.

property. This of course would mean that subsection 1.13 is wholly inapplicable to the Ponderosa property.

Fence – Part B – Absurd Results

Not withstanding the overreaching misconstruction one must make to conclude that Title 18b is in any way applicable to single-family residential property, Sullivan's conclusions of law fail for other reasons as well.

According to the planning department's interpretation, complete removal of the metallic split-rail wrought iron panels from between the masonry fence posts, or in the alternative, cutting them down to only one foot in height would bring the fence into compliance with § 1.13. However, doing so would compromise the beauty and function of the fence. Such a result would be patently contrary to "***standards are aimed at improving the community image.*** [and] *to* ***inspire*** *development of* ***lasting quality and designs that enhance the overall community.***" Thus, in addition to being offensive to the rights of property, the result your department seeks is both absurd and contrary to the plainly stated goal of the law. See: *Westpark Owners' Ass'n v. Eighth Judicial Dist. Court ex rel. Cty. of Clark,* 123 Nev. 349, 357, 167 P.3d 421, 427 (2007) (*ordinances and statutes* ***must be construed to "avoid absurd results"***).

Please bear in mind that Ponderosa did not build this fence with no purpose in mind. Over the past decade that the occupants of Ponderosa have occupied the property, on numerous occasions, stray dogs have found their way over, under, and through the former wire, wooden, and chain link fencing. Said stray dogs have chased and killed the poultry, upon which they rely on for eggs and for an ecologically sound means of pest control. (*Not only do the chickens lay eggs for food, but they wander the property at large and consume massive quantities of insects, spiders, ants and other pests.*) Because the neighbors could not be persuaded to keep their dogs confined (*this despite numerous visits by animal control and even the Sheriff*), the necessity for a fence that would positively keep the predators out of the yard became obvious. In surveying the options for fencing, it further became obvious that chain link was unsightly and offers no privacy whatsoever. Wood fencing becomes weathered and looks awful in just a couple years after which it becomes weak and gets blown apart or completely destroyed by the severe winds and weather in this area. Vinyl fencing, while somewhat better than wood, is still vulnerable to dogs and coyotes digging under it. Thus, the decision was to build a masonry fence, which would stand the test of time, hold its beauty, be very difficult for dogs to dig under, and would effectively keep predators off the property. A four-foot fence is not adequate for the job, as any large dog or coyote can simply jump right over it. Thus, with Title 18b plainly stating that it is applicable only to "***office, commercial, multi-family, public, industrial and institutional projects within Carson City***" it was reasonable for Ponderosa to construct the fence without regard to Title 18b's subsections.

Sullivan's letter states: "*Staff does not find sections of the fence code that address barbed fences or split rail fencing to be applicable as the fence does not have barbed wire, and is not a split rail fence.*" It is unclear how your staff could fail to comprehend what was argued in my previous letter with respect to §§ 1.13(3) and 1.13(5)(b). Regardless, the point was made that if the metallic split-rail wrought iron panels were removed, the planning office would have no basis whatsoever to complain about this fence. But, such a resolution would completely defeat the purpose of the fence, which is to keep predators off the property and to protect the occupants' livestock and poultry. Therefore, given planning's interpretation of this code, the occupants could replace the metallic split-rail wrought iron panels with barbed wire, electrically charged wire, or with a more traditional wood split-rail panels, at least up to 5 feet in height. The point being, the code as Sullivan reads it does allow several rather grotesque alternatives to the wrought iron panels currently installed, up to 5 feet high. But none of those alternatives would accomplish the owner's objective of keeping predators at bay.

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Here are several other important points with respect to 18b §§ 1.13(3) and 1.13(5)(b), which your staff has overlooked.

a. Although Ponderosa is not a corner lot, the fence as is, does not obstruct the line of sight for vehicles driving by by or turning at nearby intersetcions.

b. Replacement of the current fence panels with barbed wire or electrically charged fencing, while clearly allowed under § 1.13 on SF1A property, would render an otherwise beautiful and functional fence, into an ugly fence, befitting only a prison or concentration camp. Again, such a result is absurd and contrary to "***standards are aimed at improving the community image.*** [and] *to* ***inspire*** *development of* ***lasting quality and designs that enhance the overall community.***"

c. Replacement of the current fence panels with wooden split-rail fencing, while clearly allowed under § 1.13 on SF1A property, would also render an otherwise beautiful and functional fence, into an ugly fence, wholly inadequate to the job of keeping predators at bay since most predators could pass right through a traditional wooden split-rail fence. Again, such a result is absurd and contrary to "***standards are aimed at improving the community image.*** [and] *to* ***inspire*** *development of* ***lasting quality and designs that enhance the overall community.***"

d. 18b §§ 1.13(3) and 1.13(5)(b) clearly indicate an intent on the part of the law makers to accommodate SF1A and other property owners likely to have livestock, to allow the erection of fences consistent with the practical needs of containing and protecting livestock. And § 1.13(5)(b) specifically contemplates fences on SF1A properties of 5 feet tall within the set-back area. Thus, 5 foot "split-rail" fences are most definitely allowed on the Ponderosa property. There is ample evidence before you to conclude that the fence in question is of greater and more lasting quality than any wooden split-rail fence.

e. I have repeatedly referred to the wrought iron panels in the Ponderosa fence as a "*metallic split-rail*" design. Nowhere in the CCMC is the term "*split-rail*" or "*split rail*" defined. The only difference between a traditional wooden split-rail fence and the wrought iron panels in the Ponderosa fence is the material of which it is consctructed. We believe that difference is completely immaterial to the legitimate interests of city government.

f. Regarding height, 18b 6 1.13(4) indicates that the height of the fence is measured from an "*extension of street grade*." When so measured to the top rail of the fence, the Ponderosa fence is within the five foot limit of § 1.13(5)(b).

g The fact is that Title 18b § 1.13 simply does not contemplate a fence of this design, as is typical with regulations that seek to dictate taste or "*image*." However, your planning office has admitted that there is absolutely no health, safety, or morals problem with the fence as built.

h. Finally, your planning office has completely failed to articulate a single fact that would indicate the fence in question constitutes a nuisance, thus further indicating that your office, or at least Sullivan and Green are grasping at straws to find a violation where none exists.

All of the above alternatives, although specifically allowed by § 1.13, if implemented, would needlessly cause the value and appearance of the fence to be much lower as well as needlessly depreciate the value of the property and the neighborhood as a whole. Again, this is another absurd result of your planning office's position on this matter. The fact that your staff are blind to such negative effects of your department's actions speaks volumes.

Storage Containers

With respect to Sullivan's comments regarding "*Storage Containers*," the Notice of Violation issued by Kathe Green on Dec. 29, 2017, cited CCMC § 18.03.030 as the violation. However, CCMC § 18.03.005 defines "*Storage container*" and "*Metal storage container*" as "a *fully enclosed unit, ..., that houses storage items* ***in the industrial, commercial and public districts****. ,,,*" Given these definitions, there never were any "*Storage containers*" on the Ponderosa property. But, as explained previously, the cargo containers formerly at the property have been converted to Accessory structures. It is troubling that Sullivan's letter of Feb. 5, states:

> *"Staff has verified that no building permits have been issued for the structures that house the cargo containers. The building official has looked at the submitted photographs, and opined that the structures, as constructed, will not meet building code.*
>
> *If these structures could be permitted under building code and be considered accessory structures, Section 18.05.055 of the Municipal Code would apply. Subsection 7 states: ..."*

As pointed out with specificity in my letter of Jan. 23, accessory structures are permitted as matter of right under § 18.04.055 which states in relevant part as follows:

> *18.04.055 - Single-family 1 Acre (SF1A).*
>
> *1. The primary permitted uses in the SF1A district are this list plus other uses of a similar nature:*
>
> *Single-family dwelling; ...*
>
> *2. The accessory **permitted uses** **incidental to primary permitted uses within the SF1A district** are this list plus other uses of a similar nature:*
>
> *Accessory farm structure;*
>
> *Accessory structure; ...*

Thus, contrary to her statement "*If these structures could be permitted under building code* [sic] ..." they actually are permitted under § 18.04.055(2) as a permitted incidental use under the original building permit.

If Sullivan's point was to suggest that the construction method may be considered "*substandard*" with respect to the building code, please be aware that any such argument is specious. From a structural strength and integrity analysis, a metal container is superior to a stick built structure in every way. It would be more tedious than difficult to prove through expert testimony and otherwise, that metal containers are stronger, more weatherproof, impervious to wind and they are almost completely fireproof, whether the fire originates from within or without the container, as compared to stick built structures. Indeed, they are so strong that they can be stacked several layers high, one on top of the other even when fully laden. Common sense suggests that placing a wood facade over the outside of a container to ameliorate issues of appearance, only serves to increase its strength and improve appearance. Moreover, the fact that the code specifically allows "*Storage containers*' and "*Metal storage containers*" within certain other zones of the city confirms that there is no "*building code*" violation with respect to such an enclosure or structure. But again, her implication of building code violations does serve to demonstrate the desperation with which your planning staff seeks to find a violation where none exists.

And as Sullivan pointed out, § 18.05.055(8) states that: "*Accessory structure(s) shall not exceed 5 percent of the parcel size on parcels 21,000 square feet or larger, unless approval prior to issuance of a building permit by Special Use Permit.* "

Likewise, § 18.05.055(9) governing "*Accessory structures*" states: "*Accessory Farm Structures exceeding five percent (5%) of the parcel size on parcels zoned one (1) acre or larger may be **exempted under Title 18.05.050 Accessory Farm Structures from Special Use Permit approval requirements.***" And, when we examine § 18.05.050, we find that is states as follows:

> *18.05.050 - Accessory farm structures.*
>
> *In SF5A, SF2A, SF1A and MH1A zoning districts the cumulative square footage of accessory farm structures in excess of 50% of the primary building **shall be approved by the director prior to issuance of a building permit.***

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EMS, Continued:

> *Agriculture (A) and conservation reserve (CR) zoned parcels do not require a primary building.*

Given that the Ponderosa property is an SF1A property, accessory farm structures in excess of 50% of the primary building footprint are approved prior to and incidental to the issuance of the original building permit. Further, since an SF1A property is designated with an "A" for agriculture, no primary building is even required for such structures.

Notwithstanding Sullivan and Grren's failure to consider the code sections which apply to accessory structures on an SF1A property, Sullivan states in reference to § 18.05.055(8) that:

> "*Per the Assessor's Records, the residence size is 2,331 square feet, and the lot is 39,617 square feet.*" And:
> "*As building permits for these accessory building have not been obtained, please apply for a building permit for any buildings in excess of 120 square feet. Buildings less than 120 square feet are exempt from the building code*"

The above quoted statement from her letter is simply false. She cited the parcel size as being 39,617 square feet, thus 5% of that would be 1,980.85 square feet. The accessory structures in question are 320 square feet each. The two accessory structures combined total is then 640 square feet. Therefore, the combined total of the two accessory structures in question is only 1.2% of the total square footage of the lot or 32% of the 5% allowed without a permit, a total size well under that allowed and well under 50% of the primary building size. Clearly, no permit is required for these accessory structures as they are well within any applicable size limit. Thus, Sullivan misapplies § 18.05.055(8), and it, as well as §§ 18.04.055, 18.05.050, and 18.05.055(8) & (9) all confirm that no permit is required for these structures in an SF1A zone up to at least 5% of the lot size, and greater in the case of Accessory Farm Structures.

The careful avoidance in Sullivan's letter of the code sections which actually do apply to "*Accessory structures*" and "*Accessory farm structures*" on Ponderosa's SF1A property, particularly when § 18.04.055 was specifically referenced in my Jan. 23 letter, suggests an activism by your department beyond the scope of reasonable and equitable application and enforcement of the CCMC.

Abuse of process by Carson City Planning et al.

We have accumulated evidence of multiple other properties in the same SF1A zone as well in other areas of the city, which would be in obvious violation of the CCMC as your department has attempted to apply it in this case. We will present all such evidence at a hearing on this matter and seek a finding that the Carson City has waived enforcement of these provision. It is unclear at this point the precise motivation for Sullivan and her staff to engage in such selective prosecution and to stretch common sense to the point of absurdity as has been done in this case. We expect discovery to yield evidence indicating that the motivation of city personnel is personal and unrelated to legitimate city business. Such selective, capricious, and overreaching code enforcement is an abuse of process and a violation of the equal protection clause of the United States. City of Las Vegas v. 1017 S. Main Corp., 110 Nev. 1227, 1135, 885 P.2d 552, 556 (1994) (*stating that a city may not arbitrarily enforce its ordinances*). However, both Nevada and federal law provide remedies which we will aggressively seek.

With every contact planning staff has made with Ponderosa, the over-arching theme has been to extort fees for a "*Special Use Permit*" application, which Kathe Green made plain they would oppose. It appears that this witch-hunt is a bureaucratic shakedown of a citizen for the purpose of harassment and to extort funds for purposes yet to be discovered. We believe that discovery will

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yield ample evidence that these actions against Ponderosa involve selective prosecution and abuse of process arising out of personal conflicts of interest with and among the city planning agent(s) involved and other government employees engaged in unrelated litigation against Ponderosa. It was my hope that your department had the professionalism to admit where they are wrong and that when brought to their attention City Planning would seek to avoid using the code to achieve negative, counterproductive, and absurd results. But that now appears to be a false hope on my part.

If we are forced to litigate this matter, we will be requesting declaratory relief that the improvements on the Ponderosa property do not violate the cited ordinance provisions. We will also seek declaratory relief that the ordinances cited exceed the limits of NRS § 278.020 and have nothing to do with the "*health, safety, morals, or general welfare of the community*". We will seek damages under NRS 278.0233(1)(a), and attorneys' fees and court costs under NRS 278.0237. We will also seek tort damages for abuse of process. Further we will seek damages against each agent involved, in his or her personal capacity under Title 42 U.S.C. § 1983, et. seq. for deprivation of civil rights under color of law and such other relief as the law may allow.. And we will challenge state law allowing cities to charge fees for permits at all, arguing a change in the law requiring zoning and building code administration and enforcement costs be paid exclusively from the governing body's general fund.

Accordingly, demand for a written retraction of your Notices and Notice of Appeal of Sullivan's decision refusing to do so is hereby made. To that end a check in the amount of $250.00 is enclosed herewith to secure said appeal.

Sincerely,

Peter Gibbons, Manager
Equity Management Services, LLC, Trustee
for the Ponderosa EQ Land Trust

Enclosures:

Ponderosa Jan. 23 Response to K Green re: Wall/Fence
Ponderosa Jan. 23 Response to K Green re: Storage Containers

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Equity Management Services

Asset Management Services
Via Certified United States Mail

January 23, 2018

Carson City Planning Division
108 East Proctor Street
Carson City, NV 89701

Attn: Kathe Green, Assistant Planner

RE: Wall/Fencing
3809 Ponderosa Drive
APN: 009-137-07
Zoning: Single family 1 Acre (SF1A)
Notice of Violation and Order to Comply, Dated December 29, 2017

Notice and Demand for Withdrawal of
Notice of Violation and Order to Comply, Dated December 29, 2017

We are in receipt of the above identified "*Notice of Violation*" (*Notice*) from your office. Please be advised that your correspondence asserts numerous incorrect facts and law to arrive at its erroneous conclusion and demand. This letter is to notify you of the errors of law and fact contained therein and to demand your withdrawal thereof.

Your Notice asserts a violation of Carson City Development Standards § 1.13 *Fences, Walls and Hedges*. Carson City Development Standard § 1.13 is contained in Title 18b of the Carson City Municipal Code, the Appendix to Title 18 of the Carson City Municipal Code (*hereinafter "CCMC"*), which are regulations pertaining to Zoning.

The fence is in full compliance with Carson City Development Standards § 1.13

Your letter appears to assert a violation of § 1.13(1) related to masonry walls over 4 feet requiring a building permit. The letter also references § 1.13(5)(a), stating that no fence exceeding 4 feet is allowed within a front yard setback, and a fence constructed of sight obscuring material cannot exceed 3 feet. However, neither of these provisions can support a valid violation because the fence in question complies with these requirements.

The sight obscuring masonry portion of the wall does not exceed 3 feet above street grade at any location and is therefore within the 3 foot limit of § 1.13(5)(a) and within the 4 foot limit of § 1.13(1).

Your letter also fails to include an analysis of § 1.13(3) and (5)(b), which states that a property zoned SF1A may have an electrically charged or barbed-wire fence without height restriction [*§ 1.13(3)*] or a split rail fence of up to 5 feet tall [*§ 1.13(5)(b)*], even when located within the front yard setback. Our property is zoned SF1A. The upper portion of the fence is primarily a metallic open split rail design, which does not exceed 5 feet in height when measured from street grade. The masonry posts, which most closely resemble a split rail design, are not even contemplated within § 1.13 or any other section of the CCMC, as they are not sight obscuring. Thus, the fence is in compliance with § 1.13.

Carson City is without statutory authority to enforce these restrictions

Even if the fence did not comply with 18b § 1.13, Carson City is without authority to enforce those restrictions. The statutory authority for the City of Carson to implement Title 18 Regulations pertaining to Zoning is NRS 278.020, which states:

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EMS, Continued:

> ***Regulation by governing bodies of improvement of land and location of structures for general welfare.***
> *1. For the purpose of promoting* ***health, safety, morals, or the general welfare of the community,*** *the governing bodies of cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures. …* [Emphasis added]

The height restriction clauses for non-sight-obscuring fencing of Carson City Development Standard § 1.13 in no way promotes the health, safety, morals, or the general welfare of residents of Carson City, and therefore, Carson City lacks statutory jurisdiction to implement this particular Development Standard in the first instance, and lacks the jurisdiction to attempt to enforce the void ordinance.[1][1]

The fact that the City of Carson has actual knowledge of the statutory prerequisites is set forth in CCMC § 18.02.015:

> ***18.02.015 - Purpose.***
> *The purpose of Title 18 is* ***to promote the health, safety and general welfare of Carson City's citizens*** *through implementation of Carson City's Master Plan and its elements.*[Emphasis added]

So too, 18.02.025 - Jurisdiction, interpretation and application.

> ***18.02.025 - Jurisdiction, interpretation and application.***
> *The provisions and standards contained in this title, as well as the standards contained in the development standards shall be deemed to be minimum standards with which compliance is essential to the permitted uses, and shall not be construed as limiting the legislative discretion of the board to further restrict the permissive uses or to withhold or revoke permits for uses* ***when the protection of the public health, morals, safety, welfare and residential neighborhoods is necessary.*** [Emphasis added]

I am attaching 2 photographs of the alleged offending fence to be included as part of the administrative record. The Planning Division has full knowledge that the alleged offending fence in no way impairs the health, safety, morals or general welfare of Carson City's citizens, nor does it constitute a nuisance as a matter of law.[2][2]

Division 1 of the Carson City Development Standards is not intended to impact single family residences

Further, Carson City Development Standards, Division 1, Section 1.0 states in relevant part as follows:

> ***1.0 - General.***
> *These design standards have been prepared* ***to foster quality design of office, commercial, multi-family, public, industrial and institutional projects*** *within Carson City. …* [Emphasis added]

---

1 The Carson City Attorney will no doubt be able to advise you that a regulation promoted in the absence of jurisdiction is null and void. If not, my attorney will be using that long established standard of statutory construction to obtain injunctive relief for your threatened malicious prosecution and abuse of process.

2 Again, the City Attorney should be able to educate you with respect to the law of nuisance. See fn 1, supra.

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EMS, Continued:

Section 1.13 (*Fences, Walls and Hedges*) falls within Title 18b, Division 1, and therefore, as a matter of law, it does not apply to our property which is neither office, commercial, multi-family, public, industrial nor institutional in character or zoning, but which is SF1A property. In other words CCMC 18b § 1.13 is not applicable to single family residential properties, and for this reason alone your Notice must be withdrawn and abated.

Enforcement in this instance is incompatible with the intent of the CCMC

Further, your Notice is incompatible with, and contrary to the express intent of the CCMC. The intent of the CCMC is stated clearly as being ***"to promote the health, safety and general welfare of Carson City's citizens"*** (*18 CCMC § 18.02.015*) and ***"to foster quality design"*** (*18b CCMC § 1.0*). The Wall/Fence in question is of a superior quality and design to that of any other fence or wall in the neighborhood. In many decades of construction experience, I have never received as many unsolicited compliments on anything, as we have received on this Wall/Fence. Literally dozens of neighbors and strangers passing by have gone out of their way to stop and inform the occupants and myself of their approval and appreciation for the attractiveness of this Wall/Fence. This Wall/Fence is aesthetically appealing to almost everyone who sees it.

Obviously we have no intention of capitulating to your threat of extortion, to pay $2,200, on or before January 18, 2018, for a Special Use Permit application that not only is unnecessary, but also "*is not likely to be supported by Planning Staff*". That leaves only your "February 5, 2018" deadline to destroy our fence or suffer criminal and/or civil penalties in this matter.

In the process of planning and building this fence, we took every precaution to remain within the spirit and letter of the law. If for any reason some aspect of it were found to be in violation, such was never our intent, nor would it be material to the health, safety, or morals of city residents. It is simply inconceivable to us that the Carson City Planning Department would use its office to intimidate and penalize citizens without legal justification, merely for the beautification of their property. Such actions by your department are completely contrary to the stated purpose, spirit, and intent of the CCMC. In addition, they are a waste of precious city funds, which should be used to improve Carson City, not to penalize citizens for beautification of their own property. I am confident that should this matter go to trial, a jury of our fellow citizens will find the actions of your office in this case to be abhorrent, shameful, and a waste of precious city resources.

Accordingly, demand for a written retraction of your Notice is hereby made, to be received by us, on or before February 1, 2018.

Sincerely,

Peter Gibbons

Peter Gibbons, Manager
Equity Management Services, LLC, Trustee
for the Ponderosa EQ Land Trust

Suite N • 1805 North Carson Street • Carson City, Nevada 89701-1216

3809 Ponderosa Drive
Carson City, NV 89701-1216

With non-sight-obscuring panels

3809 Ponderosa Drive
Carson City, NV 89701-1216

Without non-sight-obscuring panels

Equity Management Services

Asset Management Services
Via Certified United States Mail

January 23, 2018

Carson City Planning Division
108 East Proctor Street
Carson City, NV 89701

Attn: Kathe Green, Assistant Planner

RE: Storage Containers
3809 Ponderosa Drive
APN: 009-137-07
Zoning: Single family 1 Acre (SF1A)
Notice of Violation and Order to Comply, Dated December 29, 2017

Notice and Demand for Withdrawal of
Notice of Violation and Order to Comply, Dated December 29, 2017

We are in receipt of the above identified "Notice of Violation" (*the "Notice"*) from your office. Please be advised that your correspondence asserts incorrect facts and law to arrive at an erroneous conclusion and demand. Further, the conditions that gave rise to the Notice have been abated by the property owner. This letter is to notify you of the abatement, and of the errors of law and fact contained in your Notice, and to demand your withdrawal of it.

Your Notice asserts a violation of Carson City Municipal Code (*CCMC*) § 18.05.030(1)(a) & (b) titled: "*Trailers, mobilehomes, recreational vehicles, commercial coaches and storage containers*" which states in cited part as follows:

> *18.05.030 - Trailers, mobilehomes, recreational vehicles, commercial coaches and storage containers.*
> *1. Except as otherwise provided in this section:*
> *a. No automobile, recreational vehicle, tent, train, boxcar, semi-truck trailer, passenger coach, bus, streetcar body or similar enclosure may be used or erected for storage or occupied for living or sleeping purposes in any use district.*
> *b. Tents, trains, boxcars, semi-truck trailers, passenger coaches, busses, streetcar bodies or similar enclosures and rolling stock are prohibited in all residential zoning districts.*

Please be advised that the structures your Notice references have been converted to a Accessory Structures. "'*Accessory building' or 'accessory structure' means a detached usual and customary building or structure associated with a permitted or conditional use, subordinate to the primary use on the same lot, including but not limited to storage, tool shop, children's playhouse, guest building, greenhouse, garage, swimming pools or similar structures 30 inches or more above ground.*" § 18.03.010. I have enclosed pictures for your reference. Accessory Structures are specifically permitted in SF1A districts. § 18.04.055. In this circumstance, the structures are used as a storage area and tool shop, as is permitted on the property by the ordinances' plain language.

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EMS, Continued:

Further, we do not believe the structures ever constituted a violation because CCMC § 18.02.025(5)(a) states that "*The headings contained in this title are for convenience only and do not limit or modify the intent or meaning of the provisions*" and the text of § 18.05.030(1) (a) & (b) do not mention "*storage containers*" nor "*metal storage containers*" in their list of prohibited uses. The use of "*storage containers*" in the heading cannot be construed to alter or affect the meaning of the substantive provisions.

Nevertheless, this property no longer has any metallic shipping containers upon it as they have been converted to Accessory Structures as permitted pursuant to CCMC § 18.04.055(2). Thus, your Notice is moot and should be withdrawn.

Accordingly, demand for a a written retraction of your Notice is hereby made, to be received by us, on or before February 5, 2018.

Sincerely,

Peter Gibbons

Peter Gibbons, Manager
Equity Management Services, LLC, Trustee
for the Ponderosa EQ Land Trust

Suite N • 1805 North Carson Street • Carson City, Nevada 89701-1216

3809 Ponderosa Drive
Carson City - Accessory Structure B

3809 Ponderosa Drive
Carson City - Accessory Structure A

Carson City Planning Division
108 East Proctor Street
Carson City, Nevada 89701
(775) 887-2180 Hearing Impaired: 711
www.carson.org
www.carson.org/planning

NOTICE OF VIOLATION
ORDER TO COMPLY

January 18, 2018

Certified Mail # 7015 3010 0000 1920 8304

Ponderosa EQ Land Trust
c/o Equity Management Service, Trustee
1805 N. Carson St, Suite N
Carson City, NV 89701

Re: Wall/Fencing
Location: 3809 Ponderosa Drive
APN: 009-137-07
Zoning: Single Family 1 Acre (SF1A)

Dear Ponderosa EQ Land Trust:

No Special Use Permit application was received today for submission to the Planning Commission. Therefore, the height of the fence must be reduced by February 5, 2018 as described in the original letter of December 29, 2017. The text of the original letter follows:

This is a continuation of the discussion the Carson City Planning Division started on August 25, 2016 regarding placement of a fence which exceeds the height allowed within the front yard setback as discussed with Mr. Gibbons on August 25, 2016 by phone and disclosed in a letter sent on November 3, 2016 as certified mail. The height of the fence has not been modified, despite a period of over a year to allow correction of the problem.

The height of sight-obscuring fencing, such as solid wood, masonry, chain link with slats or tight-railed pickets is limited to three feet in the front yard setback. The height may be increased to four feet if an open product is used, such as chain link without slats. In this location the front yard setback distance is thirty feet from the property line adjacent to Ponderosa Drive.

During a conversation with Mr. Gibbon on August 26, 2016 regarding the fence situation, Mr. Gibbon agreed that the sight-obscuring portion of the fence would be reduced in height to no more than three feet and that open areas of fencing would not exceed four feet in height within thirty feet of the front property line, adjacent to Ponderosa Drive. No change in the height of the fence or modification of construction of the fence has been completed.

Specifically, this fence situation is in violation of the following code requirements:

Carson City Development Standards Division 1.13 Fences, Walls and Hedges:

1. Fences, walls and hedges are a permitted use in all districts so long as such uses are consistent with health, safety and welfare of the community and in compliance with the following regulations as outlined in this section. All retaining walls four feet or taller shall require a building permit. **All block masonry walls/fences four feet or taller shall require a building permit.**

2. All fences and walls shall meet the requirements of the Building Code and Fire Code as currently adopted by Carson City.

3. Electrically charged or barbed fences are a permitted accessory use in CR, A, MH1A, SF5A, SF2A and SF1A districts. Such fences are a permitted accessory use in all other use districts only with the prior written approval of the Director or his designee.

4. The height of a fence, wall or hedge shall be measured from the highest adjacent ground, either natural or filled, upon which it is located, except within 15 feet of any front property line or within 30 feet of any street intersection, wherein all base measurements shall be considered from an extension of street grade.

5. A fence, wall or hedge not exceeding six feet in height may be located within any yard except as follows:

    a. No fences, walls or hedges exceeding four feet in height shall be permitted within a front yard setback or within five feet of the property line on the street side. When such fence is constructed of a sight-obscuring material, it shall not exceed three feet in height; and

    b. A maximum five foot tall split rail fence within SF5A, SF2A, SF1A and MH1A districts are not restricted by this section and may be located along or within the front yard or street side property line or setback; and

    c. No fences, walls or hedges exceeding three feet in height, which obstruct vision to any significant degree, shall be permitted within sight distance areas as defined in Section 18.03 Definitions.

    d. For the purposes of this section only, picket fences, tight-railed fences, chain-link fences with slats, or wire fences with slats, are considered to be sight-obscuring.

6. The height of fences, walls or hedges, which in no way encroach upon setback requirements and conform with the Building Code as currently adopted by Carson City, shall be governed by building height restrictions for each use district.

7. Fences within setbacks may be permitted in excess of ordinance requirements by approval of a Special Use Permit.

8. Six foot high fences on flag lots may be located on the property line on all sides except portions of the parcel fronting on a public street must maintain a 10 foot setback for fences over four feet tall.

9. Driveway lots must maintain a sight distance area as defined in Section 18.03 Definitions measured from the property line intersection adjacent to the

neighbor's driveway measuring a distance of 10 feet along both the common property line and along the street.

10. Where property lines may be in the center of the road, the boundary line for purpose of measuring setbacks are measured 30 feet from the centerline of the road with sight distance area requirements met in accord with Section 18.03 Definitions.

11. When this title requires open storage to be screened by a fence or wall, the intent is to require items such as stacked materials to be screened, but not to require large equipment over six feet in height to be obscured by a fence or wall.

Required Action regarding the fence: Reduce the height of the fence.

Alternatively, you may submit an application for review of a Special Use Permit by the Planning Commission for continuation a fence that exceeds the allowable height. There is no guarantee of approval and this request will likely not be supported by Planning Staff. If a Special Use Permit application is submitted, it must be in the Planning Department office no later than noon on January 18, 2018 for consideration by the Planning Commission at their meeting on February 28, 2018. Include in the application detail described in the code section provided above in support of the request. A building permit may be required for review of a masonry fence four feet in height or taller. Contact the Building Division at 887-2310 prior to submission of the application for the Special Use Permit and include details regarding the required building permit information with the Special Use Permit application.

If no Special Use Permit application is submitted by noon on January 18, 2018, the fence must be modified or removed so as to meet the restrictions as described above by February 5. If the application is denied by the Planning Commission, you will be provided ten days following the date of the decision to modify or remove the fence. The cost to apply for a Special Use Permit is $2,200.00 plus postage costs to notify the surrounding property owners. There is no guarantee of approval and no refund of fees.

Carson City Municipal Code 18.02.030 Enforcement. *It is unlawful for any person, firm or corporation, whether as a principal, agent, employee, or otherwise (hereinafter referred to as "party"), to construct, build, convert, alter, erect maintain a building, structure or any use of property, equipment, or operation in violation of a provision of this title. Any use contrary to this title is a misdemeanor offense as defined in Title 1 (Misdemeanor Declared) and a public nuisance. The following procedure shall apply to enforce the provisions of this title:*

1. *In the event of a violation of this title, the director may deliver to any party in violation of this title an order to comply with the provision of this title in a time period up to 30 days from the issuance of the order to comply at the director's discretion.*

2. *Upon failure of any party in violation of this title to comply with the order described above, the director is authorized and empowered to prepare, sign, and serve a criminal misdemeanor citation for said violation. A party is guilty of a separate offense for each and every day which such violation of this title or failure to comply with any order is committed, confined, or otherwise maintained.*

3. *The director may also refer notice of such violation to the district attorney for commencement of action to abate, remove and enjoin such violation as a public nuisance and a criminal action in the manner provided by law.*

4. *The conviction and punishment of any person under this section shall not relieve such person from the responsibilities of correcting the nuisance.*

If you have any questions regarding this notice, you may contact me at (775) 283-7071.

Sincerely,

Kathe Green, Assistant Planner

CC: Code Enforcement Division

Carson City Planning Division

108 East Proctor Street
Carson City, Nevada 89701
(775) 887-2180 Hearing Impaired: 711
www.carson.org
www.carson.org/planning

NOTICE OF VIOLATION
ORDER TO COMPLY

December 29, 2017 Certified Mail # 7015 3010 0000 8281

Ponderosa EQ Land Trust
c/o Equity Management Service, Trustee
1805 N. Carson St, Suite N
Carson City, NV 89701

Re: Wall/Fencing
Location: 3809 Ponderosa Drive
APN: 009-137-07
Zoning: Single Family 1 Acre (SF1A)

Dear Ponderosa EQ Land Trust:

This is a continuation of the discussion the Carson City Planning Division started on August 25, 2016 regarding placement of a fence which exceeds the height allowed within the front yard setback as discussed with Mr. Gibbons on August 25, 2016 by phone and disclosed in a letter sent on November 3, 2016 as certified mail. The height of the fence has not been modified, despite a period of over a year to allow correction of the problem.

The height of sight-obscuring fencing, such as solid wood, masonry, chain link with slats or tight-railed pickets is limited to three feet in the front yard setback. The height may be increased to four feet if an open product is used, such as chain link without slats. In this location the front yard setback distance is thirty feet from the property line adjacent to Ponderosa Drive.

During a conversation with Mr. Gibbon on August 26, 2016 regarding the fence situation, Mr. Gibbon agreed that the sight-obscuring portion of the fence would be reduced in height to no more than three feet and that open areas of fencing would not exceed four feet in height within thirty feet of the front property line, adjacent to Ponderosa Drive. No change in the height of the fence or modification of construction of the fence has been completed.

Specifically, this fence situation is in violation of the following code requirements:

Carson City Development Standards Division 1.13 Fences, Walls and Hedges:

1. Fences, walls and hedges are a permitted use in all districts so long as such uses are consistent with health, safety and welfare of the community and in compliance with the following regulations as outlined in this section. All retaining walls four feet or taller shall require a building permit. **All block masonry walls/fences four feet or taller shall require a building permit.**

2. All fences and walls shall meet the requirements of the Building Code and Fire Code as currently adopted by Carson City.

3. Electrically charged or barbed fences are a permitted accessory use in CR, A, MH1A, SF5A, SF2A and SF1A districts. Such fences are a permitted accessory use in all other use districts only with the prior written approval of the Director or his designee.

4. The height of a fence, wall or hedge shall be measured from the highest adjacent ground, either natural or filled, upon which it is located, except within 15 feet of any front property line or within 30 feet of any street intersection, wherein all base measurements shall be considered from an extension of street grade.

5. A fence, wall or hedge not exceeding six feet in height may be located within any yard except as follows:

   a. No fences, walls or hedges exceeding four feet in height shall be permitted within a front yard setback or within five feet of the property line on the street side. When such fence is constructed of a sight-obscuring material, it shall not exceed three feet in height; and

   b. A maximum five foot tall split rail fence within SF5A, SF2A, SF1A and MH1A districts are not restricted by this section and may be located along or within the front yard or street side property line or setback; and

   c. No fences, walls or hedges exceeding three feet in height, which obstruct vision to any significant degree, shall be permitted within sight distance areas as defined in Section 18.03 Definitions.

   d. For the purposes of this section only, picket fences, tight-railed fences, chain-link fences with slats, or wire fences with slats, are considered to be sight-obscuring.

6. The height of fences, walls or hedges, which in no way encroach upon setback requirements and conform with the Building Code as currently adopted by Carson City, shall be governed by building height restrictions for each use district.

7. Fences within setbacks may be permitted in excess of ordinance requirements by approval of a Special Use Permit.

8. Six foot high fences on flag lots may be located on the property line on all sides except portions of the parcel fronting on a public street must maintain a 10 foot setback for fences over four feet tall.

9. Driveway lots must maintain a sight distance area as defined in Section 18.03 Definitions measured from the property line intersection adjacent to the neighbor's driveway measuring a distance of 10 feet along both the common property line and along the street.

10. Where property lines may be in the center of the road, the boundary line for purpose of measuring setbacks are measured 30 feet from the centerline of the

road with sight distance area requirements met in accord with Section 18.03 Definitions.

11. When this title requires open storage to be screened by a fence or wall, the intent is to require items such as stacked materials to be screened, but not to require large equipment over six feet in height to be obscured by a fence or wall.

Required Action regarding the fence: Reduce the height of the fence.

Alternatively, you may submit an application for review of a Special Use Permit by the Planning Commission for continuation a fence that exceeds the allowable height. There is no guarantee of approval and this request will likely not be supported by Planning Staff. If a Special Use Permit application is submitted, it must be in the Planning Department office no later than noon on January 18, 2018 for consideration by the Planning Commission at their meeting on February 28, 2018. Include in the application detail described in the code section provided above in support of the request. A building permit may be required for review of a masonry fence four feet in height or taller. Contact the Building Division at 887-2310 prior to submission of the application for the Special Use Permit and include details regarding the required building permit information with the Special Use Permit application.

If no Special Use Permit application is submitted by noon on January 18, 2018, the fence must be modified or removed so as to meet the restrictions as described above by February 5, 2018. If the application is denied by the Planning Commission, You will be provided ten days following the date of the decision to modify or remove the fence. The cost to apply for a Special Use Permit is $2,200.00 plus postage costs to notify the surrounding property owners. There is no guarantee of approval and no refund of fees.

Carson City Municipal Code 18.02.030 Enforcement. *It is unlawful for any person, firm or corporation, whether as a principal, agent, employee, or otherwise (hereinafter referred to as "party"), to construct, build, convert, alter, erect maintain a building, structure or any use of property, equipment, or operation in violation of a provision of this title. Any use contrary to this title is a misdemeanor offense as defined in Title 1 (Misdemeanor Declared) and a public nuisance. The following procedure shall apply to enforce the provisions of this title:*

1. *In the event of a violation of this title, the director may deliver to any party in violation of this title an order to comply with the provision of this title in a time period up to 30 days from the issuance of the order to comply at the director's discretion.*

2. *Upon failure of any party in violation of this title to comply with the order described above, the director is authorized and empowered to prepare, sign, and serve a criminal misdemeanor citation for said violation. A party is guilty of a separate offense for each and every day which such violation of this title or failure to comply with any order is committed, confined, or otherwise maintained.*

3. *The director may also refer notice of such violation to the district attorney for commencement of action to abate, remove and enjoin such violation as a public nuisance and a criminal action in the manner provided by law.*

4. *The conviction and punishment of any person under this section shall not relieve such person from the responsibilities of correcting the nuisance.*

If you have any questions regarding this notice, you may contact me at (775) 283-7071.

Sincerely,

Kathe Green, Assistant Planner

CC: Code Enforcement Division

Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

NOTICE OF VIOLATION
ORDER TO COMPLY

December 29, 2017 Certified Mail # 7015 3010 1920 8298

Ponderosa EQ Land Trust
c/o Equity Management Service, Trustee
1805 N. Carson St, Suite N
Carson City, NV 89701

Re: Storage Containers
Location: 3809 Ponderosa Drive
APN: 009-137-07
Zoning: Single Family 1 Acre (SF1A)

Dear Ponderosa EQ Land Trust:

Storage containers, which are prohibited in all residential zoning districts, have been placed on the property at 3809 Ponderosa Drive and must be removed.

Specifically, this is in violation of the following code requirements:

18.05.030 Trailers, Mobile Homes, Recreational Vehicles, Commercial Coaches and Storage Containers:

1. Except as otherwise provided in this Section:

   a. No automobile, recreational vehicle, tent, train, boxcar, semi-truck trailer, passenger coach, bus, streetcar body or similar enclosure may be used or erected for storage or occupied for living or sleeping purposes in any use district.

   b. Tents, trains, boxcars, semi-truck trailers, passenger coaches, buses, streetcar bodies or similar enclosures and rolling stock are prohibited in all residential zoning districts.

Required Action: Remove storage containers.

Storage containers are not allowed in any residential zoning district. They must be removed from the site within 30 days of the date of this notice. There is no additional process or procedure available to allow these storage containers to remain on this

residentially zoned property. The Code Compliance Officer will inspect the site following this time frame to verify the storage containers have been removed.

Carson City Municipal Code 18.02.030 Enforcement. *It is unlawful for any person, firm or corporation, whether as a principal, agent, employee, or otherwise (hereinafter referred to as "party"), to construct, build, convert, alter, erect maintain a building, structure or any use of property, equipment, or operation in violation of a provision of this title. Any use contrary to this title is a misdemeanor offense as defined in Title 1 (Misdemeanor Declared) and a public nuisance. The following procedure shall apply to enforce the provisions of this title:*

1. *In the event of a violation of this title, the director may deliver to any party in violation of this title an order to comply with the provision of this title in a time period up to 30 days from the issuance of the order to comply at the director's discretion.*

2. *Upon failure of any party in violation of this title to comply with the order described above, the director is authorized and empowered to prepare, sign, and serve a criminal misdemeanor citation for said violation. A party is guilty of a separate offense for each and every day which such violation of this title or failure to comply with any order is committed, confined, or otherwise maintained.*

3. *The director may also refer notice of such violation to the district attorney for commencement of action to abate, remove and enjoin such violation as a public nuisance and a criminal action in the manner provided by law.*

4. *The conviction and punishment of any person under this section shall not relieve such person from the responsibilities of correcting the nuisance.*

If you have any questions regarding this notice, you may contact me at (775) 283-7071.

Sincerely,

Kathe Green, Assistant Planner

CC: Code Enforcement Division

Carson City Community Development

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

TO: Planning Commission

FROM: Lee Plemel, Community Development Director

DATE: March 8, 2018

SUBJECT: **Applicability of Title 18 Development Standards to Single Family Parcels**

The current Title 18 Development Standards were adopted in their entirety in 2001, shortly after I began working for Carson City in the Planning Department. I have worked continuously for the City in the Planning Division since that time and for approximately the last seven years as the Community Development Director.

I would like to state for the record that certain portions of Division 1 of the Development Standards have consistently been applied to single family residential parcels, based on the applicable section of the Development Standards, since adoption of the Development Standards in 2001. There are clearly portions of the Development Standards that only apply to multi-family residential and non-residential development, but there are also clearly portions of the Development Standards that apply to single family residential parcels.

18.03.010 - Words and terms defined.

"Abandoned" means concerning a building or use, not having been developed or maintained for a stated period of time.

"Abutting commercial and industrial corridors to Carson City" means all portions of property within 200 feet from U.S. Highway 50 East; William Street; U.S. Highway 395 or Carson Street lying between the Carson City county lines and the designated Carson City redevelopment area boundary.

"Access" means a clear and unobstructed usable approach of not less than 12 foot width (residential), 15 foot width (one way commercial), or 24 foot minimum width (two-way) to a legally dedicated public way.

"Accessory building" or "accessory structure" means a detached usual and customary building or structure associated with a permitted or conditional use, subordinate to the primary use on the same lot, including but not limited to storage, tool shop, children's playhouse, guest building, greenhouse, garage, swimming pools or similar structures 30 inches or more above ground. In calculating the size of an accessory structure, any space with a ceiling 7 feet 6 inches or higher shall be considered habitable space and used in determining total size. An accessory building connected to a main building by a roof, breezeway or other means which is not habitable space is considered an accessory structure attached to a primary building. Each structure must meet standard setback requirements.

"Accessory farm structure" or "accessory farm building" means a structure or building used for the housing of farm equipment or animals usually associated with a farm, including cows, horses, chickens, pigs, sheep, etc., including, but not limited to barns and coops.

"Accessory use" means a use of the land that is associated with and dependent upon the existing permitted or conditional use of that parcel. An accessory use must not take place until the permitted or conditional use.

"Action" means the decision made by the reviewing authority on a land use application; the determination made and any conditions of approval.

"Adjacent" means, for the purposes of determining setback requirements for adjacent uses, a parcel contiguous on any side or a parcel across a public or private right-of-way or access easement. Where an adjacent parcel is located across a public right-of-way, setback requirements shall be measured from the centerline of the right-of-way.

"Adjacent" means, for purposes of determining setback requirements, a parcel contiguous on any side or a parcel across a public or private right-of-way or access easement.

"Adult day care facility" means an establishment in which supervised care is provided to adults.

"Adult entertainment facility" includes all theaters, bookstores, cabarets, model studios, out call business, video stores, or similar businesses which are established for the purpose of offering its patrons services, goods or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." This definition does not include "adult merchandise retail establishments."

1. For the purposes of this chapter, "specified anatomical areas" shall include exposed human genitals, pubic region, buttock and female breast below a point immediately above the areola.
2. For purposes of this chapter, "specified sexual activities" shall include any form of actual or simulated sexual intercourse, copulation, bestiality, masochism, and fondling or touching "specified anatomical areas."
3. No adult entertainment facility shall be located within 1,000 feet of a park, church, school, residential use district or other adult entertainment facility or in any general industrial district located west of the east boundary of Sections 21, 28 and 33 of T.16N., R.20 E., M.D.B & M., Sections 4, 9, 16, 21, 28 and 33 of T.15N., R.20 E., M.D.B & M., and Sections 4 and 9 of T.14N., R. 20 E.

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18.04.055 - Single-family 1 Acre (SF1A).

1. The primary permitted uses in the SF1A district are this list plus other uses of a similar nature:

   Single-family dwelling;

   Park.

2. The accessory permitted uses incidental to primary permitted uses within the SF1A district are this list plus other uses of a similar nature:

   Accessory farm structure;

   Accessory structure;

   Agricultural use;

   Animals and fowl;

   Guest building;

   Home occupation;

   Recreation (swimming pool, tennis court) for individual or subdivision use.

3. The conditional uses in the SF1A District which require approval of a special use permit are:

   Bed and breakfast inn;

   Child care facility (accessory to residential use);

   Church;

   Municipal well facility;

   School, k-12;

   Temporary tract sales office;

   Utility substation.

(Ord. 2006-4 § 10 (part), 2006: Ord. 2004-20 § 5 (part), 2004: Ord. 2001-23 § 2 (part), 2001).

18.05.030 - Trailers, mobilehomes, recreational vehicles, commercial coaches and storage containers.

1. Except as otherwise provided in this section:

   a. No automobile, recreational vehicle, tent, train, boxcar, semi-truck trailer, passenger coach, bus, streetcar body or similar enclosure may be used or erected for storage or occupied for living or sleeping purposes in any use district.

   b. Tents, trains, boxcars, semi-truck trailers, passenger coaches, busses, streetcar bodies or similar enclosures and rolling stock are prohibited in all residential zoning districts.

2. a. A mobilehome may be used for permanent living or sleeping quarters only in a mobilehome park or mobilehome subdivision, and for temporary living quarters, where authorized by the commission.

   b. A recreational vehicle may be used for temporary living or sleeping quarters only in a recreational vehicle park or where permitted by Title 10 and Title 13 of the Carson City Municipal Code. Parking lots are not considered recreational vehicle parks.

   c. Special Exception: Where approved by the director pursuant to this section and requirements of NRS 278.315, a recreational vehicle may be used for temporary occupancy accessory to a single-family residence for the care of a person who has been documented as infirm, subject to the following conditions:

      (1) Submittal of an application on a form approved by the director, by a property owner desiring such a use.

      (2) Submittal, in writing, of the results of an independent medical examination, of the infirm person, conducted by a physician licensed to practice in Nevada, who has not treated the infirm person in the last 12 months prior to the date of the application, establishing, to the satisfaction of the director, that the infirm person is in need of care which can be facilitated by the placement of a recreational vehicle on a site under this section and that this section provides a temporary living location for a caregiver of or a person with a medically certifiable, handicapping, debilitating, or end of life issue that constitutes a serious infirmity.

      (3) A recreational vehicle used for this purpose must be self-contained or connected to city utilities pursuant to subsection (5) below, and must have been manufactured within 15 years prior to the application unless otherwise approved by the director.

      (4) A recreational vehicle used for this purpose must meet all standards established by the state of Nevada for such recreational vehicles and must be placed in the side or rear yard of a lot providing screening, from the rights-of-way, easements and adjacent properties, providing fencing and screening to facilitate, preserve and protect privacy of adjacent neighbors.

      The subject parcel must be a minimum of 12,000 square feet and the self-contained travel trailer or recreational vehicle must meet all yard setback requirements as required by Carson City Municipal Code for the applicable zoning district or by this section and must be placed in the side or rear yard of the property. The rear yard setback requirement, for applications under this section, in the single family 6,000 (SF6) and mobilehome 6,000 (MH6) zoning districts shall be a minimum of 20 feet. The director, on a case by case basis, may vary the lot size requirement, to a minimum of 6,000 square feet, based upon additional information submitted by the applicant requesting a variance to land area and without any opposition by the adjacent neighbors.

      (5) All utility connections for the recreational vehicle shall be accomplished to the satisfaction of the Carson City building and safety division and public works division prior to occupancy. No generators are allowed to be utilized.

      (6) Any recreational vehicle used for the purposes described in this section must be equipped with a functioning smoke detector, and if applicable, a propane gas detector. These

detectors must be in compliance with the state of Nevada Manufactured Housing Division pursuant to Nevada Revised Statutes 489.701.

(7) Upon receipt of an application for the use described in this section, the director shall give written notice of the application pursuant to NRS 278.315. The notice shall contain a description of the proposed use, and include time, date and location of the hearing at which the director will consider the application.

(8) At the hearing conducted to consider the application, the director shall receive and consider public comment, whether written or oral, in rendering his decision.

(9) The purpose of the use described in this section is to mitigate a hardship resulting from a documented infirmity. Financial hardship is not itself a sufficient basis for approving said use.

(10) The decision of the director may be appealed as provided in Carson City Municipal Code Title 18.

(11) The director's approval for the use of the self-contained travel trailer or recreational vehicle unit can be authorized for one year and upon submittal of an extension request prior to the first years expiration, may be continued. Should a change occur in the condition of the infirm for whom the care is being provided, or if the infirm ceases to reside at the subject property, or if the required documentation is not submitted in a timely fashion, then the authorization for the use of the unit for the infirm will be automatically cancelled. Upon cancellation of the authorization, the temporary unit must be removed from the site within 30 days after notification of the cancellation by the planning division and utility disconnection shall be accomplished to the satisfaction of the Carson City building and safety division and public works division.

d. A storage container or other similar enclosure is only allowed in the industrial districts, pursuant to Division 1 (Storage Containers) of the Development Standards.

e. Parking lots are not considered recreational vehicle parks.

3. A commercial coach may be used for an office with the approval of a special use permit. A special use permit is not required when a commercial coach is used:

a. As a construction office only at or within 100 feet of the site of a construction project and for the duration of the building permit. The applicant must obtain all required building permits for the proposed construction prior to the placement of a construction office. Where applicable, sewer/septic and water/well must be in service prior to use of the construction office. The placement of the construction office must meet applicable setback requirements. The construction office must not be utilized as living quarters. This authorization is valid for 1 year, but may be extended by the director for 1 additional year upon the granting of a building permit renewal. The request for the additional time must be submitted prior to the expiration of the original permit time frame;

b. As a temporary office space when accessory to an established business and in accordance with current adopted standards and:

(1) It will not be used for living quarters,

(2) The applicant must obtain all required building permits for the proposed construction prior to the placement of the temporary office coach,

(3) The authorization is only effective until permanent office space can be constructed and in no even longer than 1 year,

(4) The placement of the temporary office coach must meet all setback requirements, and

(5) The authorization for the temporary office coach may be revoked by the director for breach of any of the above conditions.

4. A mobilehome may be used:

a. As living quarters when the applicant is constructing a residence on the same parcel;

b. As a temporary living quarters for miners or stockmen in conservation reserve and agricultural districts. Placement of the mobilehome must meet the requirements of the fire, planning and community development and other relevant departments. Authorization for this use is valid for 1 year from date of approval and may receive a single 1 year renewal by the director.

5. The storage of an unoccupied mobilehome or recreational vehicle is permitted only on appropriate commercial or industrial zoned land. Storage of a recreational vehicle in an unoccupied state will also be permitted on the land of the legal owner of the recreational vehicle in any residential zone.

(Ord. 2007-35 § 1, 2007: Ord. 2004-31 § 1, 2004; Ord. 2004-2 § 1, 2004; Ord. 2001-23 § 2 (part), 2001).

18.05.050 - Accessory farm structures.

In SF5A, SF2A, SF1A and MH1A zoning districts the cumulative square footage of accessory farm structures in excess of 50% of the primary building shall be approved by the director prior to issuance of a building permit. Agriculture (A) and conservation reserve (CR) zoned parcels do not require a primary building.

(Ord. 2004-20 § 9, 2004: Ord. 2001-23 § 2 (part), 2001).

18.05.055 - Accessory structures.

1. It shall be unlawful to construct, erect or locate in any residential district, private garages or other accessory buildings without a permissive main building, except: a temporary building may be constructed and occupied as a legal use pending the construction of a permanent use providing that no permit shall be issued for such temporary structure unless a permit also be issued at the same time for the permanent building. If it be proposed to convert said temporary structure to a permissive accessory use upon completion of the main structure, said conversion shall occur upon completion of the final structure or be removed at that time or within a period of one (1) year from the date of issuance of original permit.
2. A detached accessory structure not exceeding 120 square feet in area and not exceeding fifteen (15) feet in overall height may be built in all residential districts except SF5A, SF2A, SF1A and MH1A within required side and rear yard setbacks provided such structure, eaves and other projections are at least three (3) feet from property line, and the accessory structure is allowed in the zoning district where it is proposed.
3. A detached accessory structure one hundred twenty (120) square feet in area up to four hundred (400) square feet in area and not exceeding fifteen (15) feet in overall height may be built in all residential districts except SF5A, SF2A, SF1A and MH1A, within required side and rear yard setbacks, provided such structure, eaves and other projections are at least five (5) feet from property lines, and the accessory structure is allowed in the zoning district where it is proposed. All accessory structures exceeding four hundred (400) square feet in area in all residential districts must meet standard zoning setback requirements.
4. On a corner lot facing two (2) streets, no accessory building shall be erected so as to encroach upon the front or street side yard setbacks.
5. If an accessory building is connected to the main building by a breezeway or other structure, which is not habitable space as defined by the Building Code currently adopted by Carson City, each structure shall meet full yard setback requirements for that district and shall be considered an accessory building and a main structure for calculation of square footage of accessory structures.
6. A detached accessory structure shall be located not closer to any other building on the same or adjoining lot than allowed by the Building Code and Fire Code as currently adopted by Carson City.
7. The cumulative square footage of the accessory building(s) or accessory structure(s) is limited to fifty percent (50%) of the total square footage of the primary building excluding the basement. [If the cumulative square footage of the accessory building(s) or accessory structure(s) is more than fifty percent (50%) and not greater than seventy-five percent (75%) of the total square footage of the primary building excluding the basement approval by administrative permit is required. If the cumulative square footage of the accessory building(s) or accessory structure(s) exceeds seventy-five percent (75%) of the total square footage of the primary building excluding the basement approval by special use permit is required. Accessory farm building(s) or structure(s) may be excluded from additional review as provided under Title 18.05.050 Accessory Farm Structures.
8. Accessory structure(s) shall not exceed five percent (5%) of the parcel size on parcels twenty-one thousand (21,000) square feet or larger, unless approved prior to issuance of a building permit by Special Use Permit.
9. Accessory Farm Structures exceeding five percent (5%) of the parcel size on parcels zoned one (1) acre or larger may be exempted under Title 18.05.050 Accessory Farm Structures from Special Use Permit approval requirements.
10. A maximum of five (5) parking bays within detached accessory structure(s) are allowed on the same lot unless approved prior to issuance of a building permit by approval of a Special Use Permit.

(Ord. 2004-6 § 12, 2006: Ord. 2004-20 § 10, 2004: Ord. 2001-23 § 2 (part), 2001).

(Ord. No. 2008-37, § III, 12-4-2008)

Chapter 18.16 - DEVELOPMENT STANDARDS

Sections:

18.16.005 - Development standards.

The board has adopted "Development Standards" which provide for minimum design specifications for the development of such items as, but not limited to, subdivisions, streets, drainage, utilities, erosion control, fire protection, lighting, landscaping, parking etc. These development standards must be utilized in the design and improvements for all divisions of land, and the city engineer and the director shall insure that the applicant or developer is in compliance with the development standards. The development standards are parallel in authority to this title and Title 18, the zoning ordinance.

(Ord. 2001-23 § 2 (part), 2001).

Division 1 - LAND USE AND SITE DESIGN

Sections:

1.0 - General.

These design standards have been prepared to foster quality design of office, commercial, multi-family, public, industrial and institutional projects within Carson City. The image of the community affects the economic well being of the city, especially the tourism economy. These standards are aimed at improving the community image.

These standards are intended to inspire development of lasting quality and designs that enhance the overall community. They are intended to assist the public, developers and design professionals in planning and designing projects. These standards shall also serve as criteria for design review by city staff, the planning commission (commission), and board of supervisors (board).

1.1 - Architectural design.

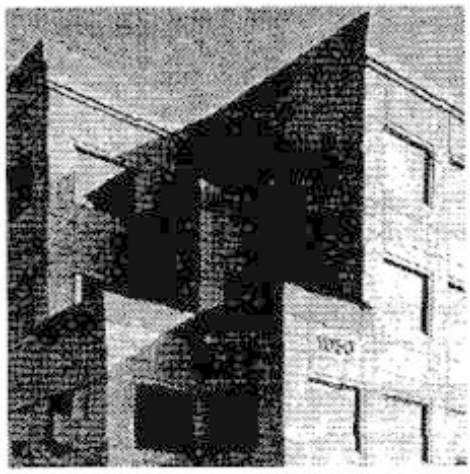
Office, retail, commercial, public, institutional, industrial and multi-family buildings and their architecture play a large role in establishing the overall image of the community. In all cases, these standards stress the importance of visually identifying and unifying the community character. These standards do not require a single architectural style; instead an eclectic mixture of harmonious styles are encouraged. Buildings which are 50 years or older within the downtown area must meet the requirements of the downtown business district found in the Carson City Municipal Code.

1.1.1 The architectural style, massing and proportion of a building should be compatible with and compliment its surroundings and environmental characteristics of the community.

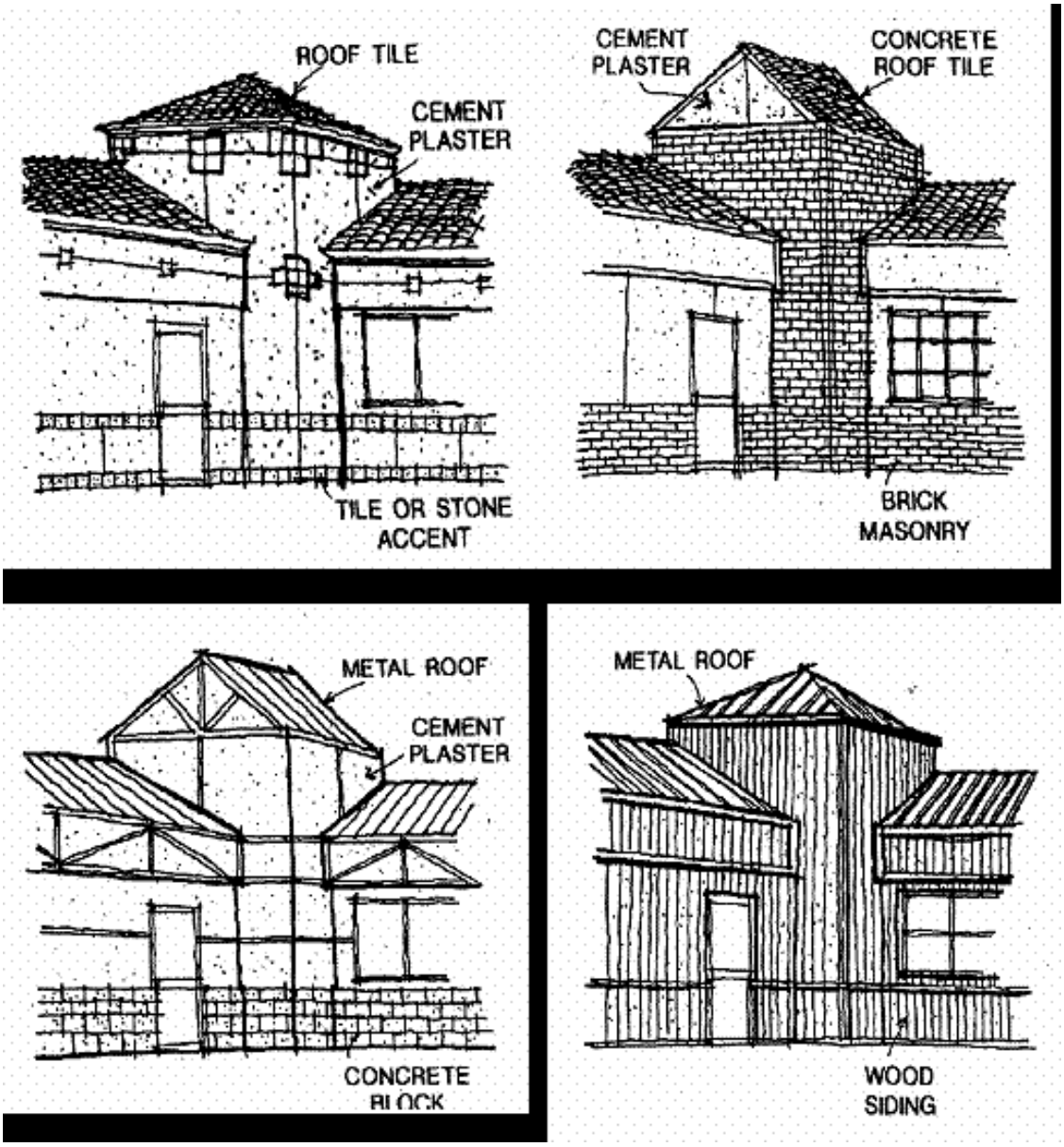
1.1.2 Buildings should be designed on a "human scale" by using architectural enhancements such as windows, awnings, arcades, plazas, courtyards and roof overhangs.

Architectural enhancements such as roof overhangs, arcades and trellises shall be used.

1.1.3 Variations of building details, form, line, color and materials shall be employed to create visual interest. Variations in wall planes, roof lines and direction are encouraged to prevent monotonous appearance in buildings. Large expanses of walls devoid of any articulation or embellishment shall be avoided. Similarly vertical variation in the roof line is encouraged. Mansard roofs shall wrap around the entire building.



Variation in wall planes adds interest



Typical materials and finishes

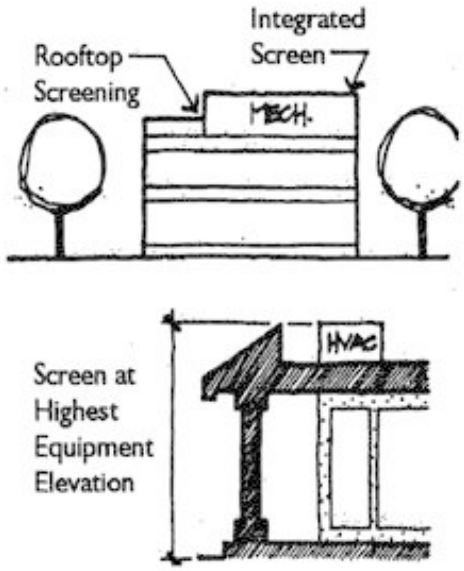
1.1.4 All building elevations shall receive architectural treatment, except in special situations where an elevation is not visible from an adjoining property or street.

1.1.5 Materials and finishes shall be selected for architectural harmony and enhancement of the architectural theme as well as aesthetic quality, durability and ease of maintenance. Materials, finishes and colors shall be varied where appropriate to provide architectural interest. The number of building materials generally shall be limited to three and these materials shall not stop abruptly at corners, but continue to side or back elevations. Smooth faced block or fabricated metal wall panels are not allowed as the predominant building material.

1.1.6 Exterior building colors should blend with surrounding development and not cause abrupt changes. Primary building surfaces (excluding trim areas) should be muted or earthtone in color. Bold colors shall be avoided except when used as accent or trim.

1.1.7 Except as otherwise provided in this section, roof-mounted equipment within commercial, industrial, office, public or multi-family districts shall be screened from view from a public right-of-way and adjacent property through the use of architectural means such as parapet walls and equipment wells. Screening of roof-mounted equipment from view must be integrated into the building design. All equipment shall be located below the highest vertical element of the building. Wall-mounted air conditioning units shall be integrated into the design and/or screened. Roof-mounted solar panels are excluded from the requirement for screening. Roof-mounted mechanical support and accessory mechanical equipment for solar panels shall be screened architecturally and integrated to match the existing roof and/or building materials.

On sites exhibiting topographic relief effecting visual screening capabilities, site-obscuring screening shall be provided to visually screen the equipment at a minimum of 100 feet from the site.



Typical Equipment Screening

1.1.8 Reflective, untreated roofs shall be prohibited unless painted flat, non-glossy paint to compliment or match the primary color of the primary exterior building material(s).

1.1.9 Multi-building/tenant projects shall include architectural consistency for all buildings including color schemes, wall textures, roofs, roof slopes, awnings and other similar architectural themes.

1.1.10 Buildings which give the appearance of "box-like" structures shall be discouraged.

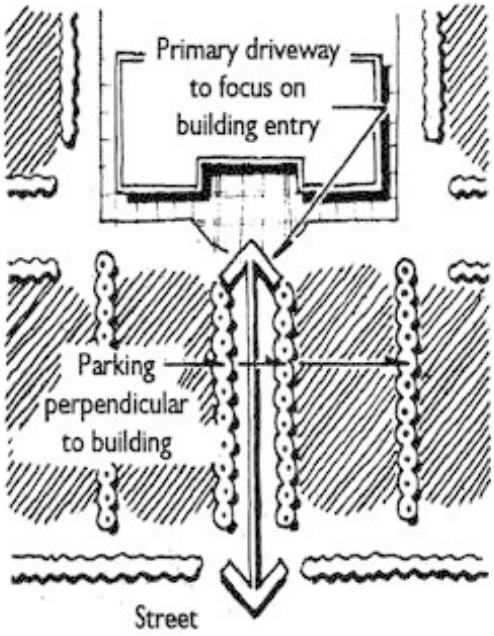
(Ord. 2001-23, Development Standards).

(Ord. No. 2008-29, § II, 8-7-2008)

1.2 - Site design.

These standards are intended to promote quality development, visual compatibility, safety and consistency through an integration of site design elements including building orientation and location, site access, circulation, parking, service areas and pedestrian and bicycle access. Of primary concern is the appearance as viewed from the street.

1.2.1 Primary entries and/or facades of buildings should be oriented towards the street or main parking area.



Typical building and parking relationship

1.2.2 The orientation and location of a building should provide for pedestrian and bicycle activity and access. Bike racks shall be located in a safe and convenient location close to building entrances. Clustering of multiple buildings should create pedestrian plazas, courts or patio areas and be linked architecturally with arcades, trellises, or other similar open structure concepts.

Typical building clusters shall create friendly outdoor spaces.

1.2.3 Buildings oriented in a "strip" or straight row with parking along the entire street frontage are not encouraged.

1.2.4 Buildings or other improvements shall not impair visibility at street corners or driveway.

1.2.5 Detached storage buildings or storage areas shall be located towards the rear of a site and be screened with the use of walls, fencing, and/or landscaping.

Typical screening of service area.

1.2.6 Trash enclosures shall be placed so as to be screened from public right-of-ways and adjacent uses. Outside areas used for the storage of trash, refuse or recycled materials shall be completely enclosed by a gate and a six-foot masonry block wall (all cells grouted solid) and be designed to integrate with the site design. Trash enclosures shall be screened with appropriate plant material.

Trash enclosures shall be designed to meet or exceed minimum size requirements as determined by the sanitation company and shall be located to provide unobstructed access to refuse vehicles. All trash, refuse or recycled material shall be stored in containers within its walled enclosure.

1.2.7 Provision for newspaper racks, postal boxes and street furniture shall be included as necessary in the overall project design.

1.2.8 All utilities shall be supplied to a building or project by underground service, except as approved by the Director.

1.2.9 Non-residential power transformers or other above ground equipment shall not impair sight distances and shall be screened from the adjacent public right-of-way. Consideration shall be given to utility company access.

1.2.10 Restaurant and food service businesses shall install a drain that is connected to an approved grease interceptor in accordance with Division 15.

(Ord. 2001-23, Development Standards).

(Ord. No. 2008-33, § XIII, 9-4-2008)

1.3 - Lighting standards.

This section sets forth criteria and standards to mitigate impacts caused by lighting and glare.

Lighting Purpose Statement. Office, retail, commercial, public, institutional, industrial and multi-family buildings and their lighting are part of the overall image of the community. In all cases, these standards stress the importance of visually identifying and unifying the community character. Unnecessary and improperly designed light fixtures cause glare, or intense light that results in unnecessary brightness, a reduction of visual performance and visibility, light pollution and wasted resources through additional expense for utility costs, hazardous conditions for all modes of transportation, and also affects the ability

to view the night sky, including astronomical observations. The following regulations are intended to mitigate these conditions by regulations that require shielding, pointing lighting downward (other than accent lighting), only using the amount of light that is necessary and recommending turning fixtures down or off when not required. All new lighting including upward wall lighting must be reviewed and approved by the director or his designee.

Applicability:

1.3.1 All existing structures and residential uses are exempt from this ordinance and are considered grand fathered improvements. All proposed new commercial developments, buildings, multi family residential complexes of 10 units or more, structures or building additions of 50 percent or more in terms of additional dwelling units, gross floor area, seating capacity, or other units of measurement specified herein, either with a single addition or cumulative additions subsequent to the effective date of this provision, shall meet the requirements of this Ordinance for the entirety of the property, including all existing and proposed lighting unless exempted under Nonconforming Uses, shown below. For all building additions of less than a cumulative amount of 50 percent, the applicant shall only have to meet the requirements of this section for only the new outdoor lighting proposed.

1.3.2 Nonconforming Uses or Structures. Whenever a nonconforming use, structure or building is abandoned for a period of 12 months and then changed to a new use according to the requirements of this code as described in Municipal Code Title 18.04.030 Nonconforming Uses, then any existing outdoor lighting, with the exception of conversion to a residential use of nine units or less, shall be reviewed and brought into compliance with this code.

1.3.3 General Requirements in All Commercial and Industrial Zones:

Light. All nonresidential uses shall provide lighting within public parking areas and access ways to provide safety and security. All light sources shall be located and installed in such a way as to prevent spillover lighting onto adjoining properties and glare to the sky. The following provisions shall apply to all proposed development:

1. Any lighting facilities shall be so installed as to project light downward and away from adjoining properties and glare to the sky, with the exception of accent lighting, which is limited to a maximum upward angle of forty-five (45) degrees. Site lighting trespass onto adjacent locations and the night sky shall be minimized. Covers must be installed on all lighting fixtures and lamps must not extend below the bottom of the cover. All light fixtures, except street lights, shall be located, aimed or shielded so as to minimize stray light trespassing beyond property boundaries.

2. All light fixtures that are required to be shielded shall be installed in such a manner that the shielding is installed as designed. Fixtures, which are International Dark Sky Association approved such as Dark Sky Friendly or equivalent, with full cutoff lighting for area and wall pack fixtures are recommended. Sag, convex, drop lenses and luminaries with open bulbs are prohibited.

3. If elevations of buildings are proposed for accent illumination, drawings and a photometric plan shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the illuminance levels of the elevations and the aiming points. The maximum upward angle is forty-five (45) degrees.

4. Light standards, light poles and wall pack lighting adjacent to residential zones shall be limited in height as follows: Fixtures shall not exceed an overall height of twelve (12) feet within seventy-five (75) feet, sixteen (16) feet within one hundred (100) feet, twenty (20) feet within one hundred twenty-five (125) feet, twenty-four (24) feet within one hundred fifty (150) feet and twenty-eight (28) feet within one hundred seventy-five (175) feet of property line, or center of street, whichever is closer, when adjacent to residential zones. Additional height may be permitted by the Director provided such lights are a sharp cutoff lighting system. Illumination levels at the property line of a project shall be reduced by the use of

house side shields and reflectors, and shall be maintained in such a manner as to confine light rays to the premises of the project.

5. No permanent rotating searchlights shall be permitted in any regulatory zone, except that an Administrative Permit may be issued by the Director for a period not to exceed three (3) days for a temporary searchlight. The Administrative Permit shall be limited to a minimum of three (3) times in one (1) calendar year. This prohibition shall not apply to the Carson City Airport.

6. Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level. A photometric plan is required on all projects with building size of fifty thousand (50,000) square feet or larger and may also be required at the discretion of the Director.

7. For all projects where the total initial output of the proposed lighting equals or exceed one hundred thousand (100,000) lumen, certification that the lighting, as installed, conforms to the approved plans shall be provided by a certified engineer before the certificate of occupancy is issued. Until this certification is submitted and reviewed, approval for use of a certificate of occupancy shall not be issued for the project.

8. Exterior lighting installations shall include timers, dimmers, sensors or photocell controllers that turn the lights off during daylight hours or when lighting is not needed, which will reduce unnecessary lighting, as practical. Businesses are encouraged to turn lighting down or off when businesses are not open.

9. Glare. Reflected glare on nearby buildings, streets or pedestrian areas shall be avoided by incorporating overhangs and awnings, using building materials and colors which are less reflective for exterior walls and roof surfaces, controlling angles of reflection and placing landscaping and screening in appropriate locations.

1.3.4 Interior lighting. Where residential uses abut non-residential uses, interior building lighting of the non-residential uses shall be controlled at night through the use of timers, window blinds or other acceptable means.

1.3.5 General Lighting Performance Standards. All exterior light fixtures shall use full cut-off luminaries with the light source downcast and fully shielded with no light emitted above the horizontal plane. Again, fixtures which are International Dark Sky Association approved such as Dark Sky Friendly or equivalent with full cutoff lighting for area and wall pack fixtures are recommended. Exceptions are noted below.

1. Luminaries which have a maximum output of 500 lumen per fixture, (equivalent to one 40-watt incandescent bulb) regardless of number of bulbs, may be left unshielded provided the fixture has an opaque top to keep light from shining directly up. Luminaries which have a maximum output of 850 lumen per fixture, (equal to one 60 watt incandescent light) regardless of number of bulbs, may be partially shielded, provided the bulb is not visible from off-site, no direct glare is produced, and the fixture has an opaque top to keep light from shining directly up.

2. Accent Lighting. Architectural features may be illuminated by up-lighting or light directed to the building, such as wall washing, provided that the light is effectively aimed to or contained by the structure by such methods as caps, decks, canopies, marquees, signs, etc, the lamps are low intensity to produce a subtle lighting effect, and no light trespass is produced. The angle of up-lighting shall not exceed 45 degrees. Luminaries shall not be installed above the height of the parapet or roof. For national flags, statutes, public art, historic buildings or other objects of interest that cannot be illuminated with down-lighting, upward lighting may be used in the form of narrow-cone spotlighting that confines the illumination to the object of interest.

3. All luminaries shall be aimed and adjusted to provide illumination levels and distribution as indicated on submitted plans. All fixtures and lighting systems shall be in good working

order, cleaned and maintained in a manner that serves the original design intent of the system.

4. Floodlights that are not full cut-off (light emitted above the fixture) may be used if permanently directed downward, not upward, and aimed at no more than a 45 degree angle, so no light is projected above the horizontal plane, and fitted with external shielding for top and side to prevent glare and off-site light trespass. Unshielded floodlights are prohibited.

5. Sensor activated lighting may be used provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and provided the light is set to go on only when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.

6. Vehicular lights and all temporary emergency lighting such as search lights or any similar high-intensity lights as needed by the fire department, sheriff's office, public works department, Carson City Airport, utility companies, State or Federal Departments or other emergency services shall be exempt from the requirements of this ordinance.

7. Illumination for outdoor recreation facilities must conform to the shielding requirements, except when such shielding would interfere with the intended activity. For such facilities, partially-shielded luminaries are permitted. Examples f activities where partially-shielded luminaries are permitted include, but are not limited to, baseball, softball and football. Fully-shielded luminaries are required for tennis, volleyball, racquetball, handball courts and swimming pools. Rotating airport beacons are exempt from this requirement.

8. Service Station/Canopy Lighting. All luminaries mounted on the under surface of service station canopies shall be fully shielded and utilize flat covers. All lighting shall be recessed sufficiently so as to ensure that no light source causes glare on public rights-of-way or adjacent property. A maximum of 850 lumen per fixture is allowed (equivalent to one 60-watt incandescent bulb).

9. Temporary Lighting. The director may grant a permit for temporary lighting, which does not conform to the provisions of this ordinance if the applicant meets the following criteria: the purpose for which the lighting is proposed does not extend beyond 60 days, but may be granted a 30 day extension after review by the Director. The director will rule on the application within 5 business days of the date of submission of the request, and notify the applicant in writing of the decision.

   a. The proposed lighting must be designed in such a manner as to minimize light trespass and glare to the sky.

   b. It will be a temporary use and will be in the public interest.

   c. The application for temporary lighting shall include the following information:

      The name and address of the applicant and property owner, a site plan showing entire site and location of proposed luminaries, manufacturers specification sheets showing type, wattage and height of lamp(s) with type and shielding of proposed luminaries, or if not new, pictures of previous sites or of the fixtures proposed to be used.

10. Maintenance. All fixtures shall be maintained in good working order, with aiming, angles, wattage and intensity as originally approved. Replacement bulbs shall be the same or less wattage and intensity as originally approved. Fixtures and reflecting surfaces shall be cleaned on a regular schedule to reduce additional unapproved glare.

11. The director may approve variations to the standards set out in this Division if variations are more appropriate to a particular site, provide an equivalent means of achieving the intent of these lighting standards and are in keeping with the purpose statement of this section. A letter of request detailing the reason for the variation and changes requested is required to be submitted to the director.

12. These standards are enforced under Title 18.020.030 (Enforcement).

(Ord. 2007-12 § 1, 2007: Ord. 2001-23, Development Standards).

(Ord. No. 2008-29, § III, 8-7-2008)

1.4 - Guest building development.

Guest building refers to a dwelling unit on the same lot as the primary dwelling unit and ancillary to it. A guest building may provide complete, independent living facilities for 1 or more persons, including permanent facilities for living, sleeping, eating, cooking and sanitation. Typical uses include guest houses, second units, extended family housing and caretaker's quarters.

1.4.1 A site plan shall be submitted indicating the following:

a. Location of primary residential structure with setback distances, distance to guest building and other accessory structures.

b. Location of all public and private utilities and/or well and septic tank/leach field.

c. Access to primary residential structure and guest building.

d. Zoning, size of lot, assessors parcel number, north arrow, scale, location of other outbuildings.

1.4.2 Recordation. The property owner shall, prior to the issuance of a certificate of occupancy for the building permit, record a deed restriction against the subject property with the city recorder's office stating the guest building occupation limitations contained in Section 1.4.10.

1.4.3 Existing Guest Buildings. Existing guest buildings may expand to include a kitchen facility only upon full compliance with the provisions of this division. Approval of a building permit is required if the structure itself is being altered.

1.4.4 Maximum Size. Guest building living space gross floor area shall not exceed 50 percent of the assessed floor area of the main residence, excluding garages, basements and other accessory structures, or the following limitations, whichever is less:

a. In the SF6, MH6, SF12 and MH12 zoning districts, a maximum of 700 square feet;

b. In all other single family residential districts, a maximum of 1,000 square feet.

1.4.5 Required Setbacks. All guest buildings shall meet the same setbacks as required for the primary residence on the lot, provided that second story elements of a guest building are a minimum of 20 feet from all property lines.

1.4.6 Maximum Building Height. The guest building shall meet the maximum height requirements of the zoning district in which it is located, provided that second story elements of a guest building are a minimum of 20 feet from all property lines.

1.4.7 Required Parking. A minimum of 1 off-street parking space or, for guest buildings with multiple bedrooms, 1 parking space per bedroom shall be provided outside of the required front-yard setback area in addition to the required parking for the main residential use. In the SF6, MH6, SF12 and MH12 zoning districts, the guest parking must be provided on a paved surface.

1.4.8 Site Design.

a. Architectural design and materials for a guest building shall be consistent and compatible with the design and materials of the main structure, including but not limited to roof pitch, roof materials, siding materials and color, and other architectural features;

b. Only one entrance may be visible from the street frontage.

1.4.9 Modifications to These Provisions.

a. The above guest building provisions relating to size, height and site design may only be modified by approval of a special use permit;

b. The above guest building provisions relating to setbacks and parking may only be modified by approval of a variance.

1.4.10 Guest Building Occupation. A guest building may only be occupied by the family members of the primary residence, as defined by Title 18 of the Carson City Municipal Code, and their non-paying guests. Guest buildings may not be rented as secondary dwelling units.

(Ord. 2007-24 § 2, 2007: Ord. 2006-4 § 1, 2006: Ord. 2001-23, Development Standards).

1.5 - Not used.

(Ord. 2006-4 § 2 (part), 2006: Ord. 2001-23, Development Standards).

1.6 - Child care facilities performance standards.

The following performance standards shall be used in review of individual special use permit requests for child care facilities in addition to other standards of this title.

1. The size, client density and operational characteristics, including, but not limited to, the number of employees, hours of operation and loading/unloading area of a proposed child care facility within a residential zoning district shall be compatible with and shall not adversely affect adjacent residents pursuant to the requirements of this chapter. Consideration shall be given to the following:

   a. With the construction of, or approval of, new facilities, the facility shall be similar in scale, bulk and site coverage with that of the immediate neighborhood;

   b. The availability of public facilities, services and utilities;

   c. Emphasis on maintaining the residential neighborhood character;

   d. The generation of traffic and the capacity and physical character of surrounding streets.

2. Parking shall meet the requirements of Division 2 (Parking and Loading) of the development standards.

3. Landscaping. In the design of parking area landscaping, considerations shall be given to the retention of existing trees and shrubbery.

4. Signs. This section shall apply exclusively to signs for child care facilities located within a residential zoning district. Compliance with Division 4 (Signs) of the development standards shall not be required for a child care facility. The board find and declare that an on-site sign to "advertise or promote" the facility is not necessary. On-site identification of the address and logo no greater than 2 square feet in size distinctive to a particular child care facility used as a public convenience in identifying the site for the public shall be permitted.

5. If the facility's structure is located within the historic district, then design and material shall require review and approval by the HRC.

6. Open Space. Open space requirements shall be designated and regulated by the Carson City health department prior to approval of the special use permit.

7. Interior Space Requirement for Children. The interior space requirements shall be designated and regulated by the Carson City health department prior to approval of the special use permit.

8. Child care facilities may be established in the general industrial (GI) zoning district only as an accessory use to a permitted primary use.

9. In residential zoning districts, a child care facility may only be established as an accessory use to the residential use of the structure, and the residence must be occupied by the operator as a primary residence.

(Ord. 2002-33 § 2, 2002; Ord. 2001-23, Development Standards).

1.7 - Bed and breakfast inn performance standards.

The following performance standards shall be used in review of individual special use permit requests for bed and breakfast inn uses in addition to the other standards of this title.

1. The location, size, design and operation characteristics of the proposed bed and breakfast inn shall be compatible with and shall not adversely affect adjacent uses and residents. Consideration shall be given to:

   a. Harmony in scale, bulk, site coverage and density of all associated improvements and alterations;

   b. The availability of public facilities, services, and utilities;

   c. The effect upon desirable neighborhood character;

   d. The generation of traffic and the capacity and physical character of surrounding streets;

   e. The suitability of the site for the use which is proposed including available parking in relation to intensity of use;

   f. Other relevant impacts of the proposed use.

2. Parking. In all districts, 1 off-street parking space per guest room and 2 off-street parking spaces for the owner resident shall be required. On an individual basis, consideration may be given to off-premises and on-street parking as a part of the bed and breakfast inn special use permit.

   Replacement of existing landscaping (including lawns and ground cover) with paving for parking use shall be avoided whenever possible.

   Consideration shall be given to allowing parking within landscaped areas by utilizing paver stones, turf stones, decorative gravel, or other alternatives to asphalt or concrete paving.

3. Landscaping:

   a. Parking areas and exterior waste receptacles shall be screened by a wooden fence in conjunction with an earth berm and/or shrubbery. The combination of screening shall be at least 4 feet in height.

   b. In design of landscaped areas, consideration shall be given to retention of existing trees, harmony with setting and structure, strengthening of vistas and seasonal shade.

4. Signs. This section shall apply exclusively to signs for bed and breakfast inns. Compliance with Division 4 (Signs) of the development standards shall not be required for a bed and breakfast inn business. The board finds and declares that an on site sign to "advertise or promote" the business is not necessary. On-site identification of the address and a small logo distinctive to a particular inn used as a public convenience in identifying the site for guests shall be permitted.

   a. The main performance criteria for bed and breakfast inn signs shall be design, materials and location which are compatible with the architecture, colors and materials of the subject residence and which enhances the character of the neighborhood.

   b. Within the historic district, signs for bed and breakfast inns shall be limited to 1 per establishment, not to exceed a cumulative total of 3 square feet in size and consisting of the name and address only. Any sign illumination shall be exterior to the sign and shielded so as not to glare upon an adjacent property or public right-of-way. Backlighting shall be

prohibited. Siting shall be either on the structure or a fence, or shall be freestanding. If freestanding, the sign shall not exceed 3 feet in height. Design materials and colors shall be compatible with the style and detailing of the residence and shall require review and approval of the HRC.

c. Outside the historic district, signs shall be approved on an individual basis at the time of special use permit approval. Regardless of the zoning district, signs shall be reviewed in terms of good design, compatibility with surrounding neighborhood, materials and identification as opposed to advertisement.

5. Number of Guest Rooms.

   a. A maximum number of 5 guest bedrooms shall be allowed.

   b. A minimum of 2 guest bedrooms shall be allowed.

6. Ancillary Uses.

   a. The sale or display of merchandise or other commodities shall be prohibited unless allowed in the specific zoning district and the required public facilities, including parking, are provided.

   b. Except for personal use of the owner, private weddings, receptions, luncheons, cocktail parties and any other such functions for which the owner receives consideration for the use of the inn shall be regulated in frequency and manner by the special use permit. Such ancillary functions shall be sponsored by paying guests at the inn.

   c. Bed and breakfast inns which are located outside the historic district shall not be limited in the number of social functions, except as otherwise established in the zoning district, or by special use permit.

   d. Each owner who manages a bed and breakfast inn shall obtain a permit for the facility from the Carson City health department prior to the validation of a special use permit.

   e. The fire department shall inspect and approve all bed and breakfast inns prior to validation of a special use permit.

(Ord. 2001-23, Development Standards).

1.8 - Satellite dishes and antennas.

Satellite dish antennas exceeding 18 inches in diameter are subject to the following conditions:

1. Location and Placement.

   a. All antennas must be ground mounted. If ground mounting is not feasible, or special circumstances exist, an alternative location, such as roof mounting, may be approved subject to a special use permit.

   b. Shall not be located within any front or street side yard setback, nor visible from the front or street side property line.

   c. All cables and lines serving the antenna shall be located underground.

2. Height and Dimensions.

   a. In residential districts, the antenna shall not exceed 12 feet in height above grade and 10 feet in diameter.

3. Setbacks.

   a. The antenna shall set back from any side or rear property lines a minimum distance of 5 feet, or the applicable setback requirement for the respective use district in which it is located, whichever is greater.

b. If lot is irregular in shape, or other special circumstances exist, a variance may be requested from the standards listed above.

4. Screening and Design.

a. Satellite dish antennas shall be consistent in color with the surrounding natural or built environment.

b. Non-residential satellite dish antennas located adjacent to residentially zoned property and which exceed 10 feet in diameter shall require screening in accordance with adopted Carson City standards.

(Ord. 2001-23, Development Standards).

1.9 - Wireless telecommunication facilities and equipment.

Regulations and standards set forth in this section are designed to address wireless telecommunication facilities and equipment used for the commercial broadcasting/receiving of transmissions regulated under the Telecommunications Act of 1996. Definitions for the various uses and terms referenced in this section are included in the Section 18.03 (Definitions). Electrical or mechanical equipment that creates video or audio interference in customary residential electrical appliances or causes fluctuations in line voltage outside the dwelling unit is prohibited.

1. Location and Placement Standards.

a. Facilities and equipment shall be located according to the following priorities, (#1 is the most acceptable, #5 is the least acceptable):

(1) Concealed within an existing structure;

(2) Camouflaged or screened within an existing structure;

(3) Camouflaged or screened on an existing structure, particularly existing telecommunications facilities, utility poles and towers, water towers, and commercial, industrial or public facility buildings;

(4) Co-located with existing wireless communication service facilities;

(5) Erection of a new, freestanding facility subject to other requirements of this section and where visual impact can be minimized and/or mitigated.

b. The applicant shall adequately justify the location proposed based on a consideration of the above priorities.

c. Placement on existing structures shall not jeopardize the character and integrity of the structures as determined by the building and/or engineering department.

d. If ground mounted, facilities and equipment shall not be located in the front yard portion of a parcel with an existing structure.

e. Either the applicant or co-applicant must be a carrier licensed by the Federal Communications Commission and submit documentation of the legal right to install and use the proposed facility.

2. Height and Dimensional Standards.

a. The height of the facility shall include any antenna, array or other appurtenances.

b. Facilities shall not exceed 120 feet in height above grade. The applicant must provide a written justification for the proposed use and adequately demonstrate that the proposed height is necessary, including co-location opportunities. The applicant shall submit a report from an independent, accredited source providing justification for the proposed height or an alternative lower height.

3. Setbacks.

   a. All facilities, equipment and equipment shelters shall comply with the building setback provisions of the zoning district in which they are located.

   b. Roof mounted facilities shall be stepped back from the front facade in order to limit their impact on the building's silhouette and/or concealed, camouflaged or screened.

   c. Facilities and equipment shall be located no closer than 4 times the facility height from any residentially zoned property.

4. Design Standards.

   a. Ground mounted facilities and equipment not camouflaged by design, existing buildings or structures shall be screened according to adopted Carson City standards, including landscaping and screen walls.

   b. Facilities and equipment that are side mounted on buildings shall be consistent with the architectural style and color of the building on which it is mounted.

   c. Ground and roof mounted facilities shall be painted a non-glossy color that blends with the surrounding natural and built environment.

   d. Equipment shelters not placed underground shall be appropriately screened according to adopted Carson City standards.

   e. New, stand-alone facilities shall be designed to allow additional wireless service providers to co-locate antennas on the structure.

   f. The exterior of facilities and equipment shall not be lighted unless required by the Federal Aviation Administration (FAA) with the exception of manually operated emergency lighting.

   g. All ground mounted facilities and equipment shall be surrounded by a security barrier. The barrier shall contain adequate controlled access and be posted with a 1 square foot sign indicating the facility owner(s) and a 24-hour emergency telephone number.

(Ord. 2007-9 § 7, 2007; Ord. 2006-4 § 2 (part), 2006: Ord. 2001-23, Development Standards).

1.10 - Personal storage and metal storage containers.

Trends indicate that as communities continue to grow, the need for personal storage uses also increases. With the continued development of upscale subdivisions prohibiting on-site storage of vehicles or other items, personal storage facilities are becoming increasingly necessary. Commercial locations may also require additional storage in metal storage containers. The following section sets forth criteria and standards for development of personal storage facilities and metal storage containers.

Personal Storage:

1. A minimum of 60% of the lot's street frontage(s) shall be developed with retail and/or office space in the neighborhood business, retail commercial and tourist commercial (NB, RC and TC) zoning districts only.

2. A sight-obscuring entrance gate and perimeter opaque fence or wall shall be provided to screen views of individual storage units.

3. The architectural and site design of the retail/office building, storage units, perimeter fencing, lighting, and landscaping is subject to approval by the director. A metal pre-fabricated exterior office/retail building is prohibited.

4. No business activities other than storage shall be conducted within individual storage units.

5. Outside storage is prohibited except as expressly permitted in Title 18 or the development standards. Storage containers may be utilized in industrial districts to house storage items

within them. Temporary storage containers are allowed at construction sites for a maximum of 30 days, or as approved by the director after review of the individual construction schedule.

6. Additionally, storage units adjacent to residential areas shall:
    a. Not exceed 14 feet in height (1 story);
    b. Have a minimum 20 foot landscape buffer and a solid 6 foot masonry wall located between the storage units and residential uses;
    c. Have limited hours of operation 7:00 a.m. to 7:00 p.m. unless otherwise approved by the planning commission;
    d. Have a monument style sign not exceeding 6 feet in height.
7. Shared use parking shall not exceed 5% of total parking.
8. Must meet the definition as defined in CCMC 18.03.
9. Metal storage containers, as defined in CCMC 18.03 is a fully enclosed unit, excluding semi-truck trailers, that house storage items and may be utilized in any industrial, public or commercial zoning district, excluding the neighborhood business (NB) zoning district, in conjunction with a permitted primary use of the property subject to the following use performance standards:
    a. Metal storage containers may be utilized on a temporary basis, for a maximum of 90 days, once in any calendar year, subject to the approval of the director.
    b. Within any industrial zoning district, the use of metal storage containers on a permanent basis is subject to the approval of the director.
    c. Within the commercial or public zoning districts, excluding the neighborhood business (NB) zoning district, the use of metal storage containers on a permanent basis beyond 90 days requires approval of a special use permit. No metal storage containers are allowed in the neighborhood business (NB) zoning district.
    d. The use of metal storage containers within the downtown commercial (DC) zoning district also requires approval by special use permit and downtown design review approval pursuant to 18.07 and development standards Division 6.
    e. Metal storage containers shall be used for storage purposes only and no human occupation shall occur. No alterations shall be made or allowed to the metal storage container including, but not limited to, doors, windows, electrical, plumbing, or connection of multiple containers unless factory built with those improvements. No storage shall be placed upon or above the metal storage container. Storage containers shall not be stacked upon each other.
    f. No hazardous materials shall be stored in metal storage containers. Metal storage containers shall not be sited in a manner to be detrimental to the public's health and safety.
    g. Metal storage containers shall be at building grade and located at the side or rear of the primary structure. Metal storage containers shall not occupy any required parking spaces, landscape areas, drive-aisles, firelanes, drainage courses, drainage easements, detention basins, or vehicular or pedestrian access ways. Metal storage containers shall not be permitted on vacant property.
    h. All metal storage containers shall be painted either to blend with the primary or adjacent structures or painted earth-tone colors to minimize visual impacts. Graffiti shall be removed in accordance with the city's graffiti ordinance. All metal storage containers in use shall be in a condition free from rust, peeling paint, or other visible forms of deterioration. Metal storage containers shall be screened with chain link fencing with slats, concrete masonry unit (CMU) block walls and/or landscaping as

approved by planning staff. Metal storage containers and their screening and landscaping shall be maintained in good repair. Any metal storage containers that are not maintained in good repair or that are dilapidated or dangerous, shall be repaired or removed, following an order to comply from the director.

i. Advertising is prohibited on the exterior of all metal storage containers.

j. The use of semi-truck trailers as storage containers is prohibited in all zoning districts.

k. The number of metal storage containers allows for a business is dependent upon the following list of factors:

(1) Overall site placement;

(2) Screening provisions;

(3) Square footage of store or building;

(4) Square footage of parcel;

(5) Adjacency to residential zoning districts;

(6) Length of stay of metal storage container;

(7) Applicants justification/need for extra on-site storage for their business.

l. A metal storage container special use permit shall be reviewed in 5 year increments or at any time the principal property use changes, with a $50.00 administrative service charge and noticing costs paid by applicant.

m. Special use permit fees for metal storage containers as adopted by resolution of the board, shall be charged, collected and deposited with the planning and community development department.

(Ord. 2006-4 § 2 (part), 2006: Ord. 2002-40, Development Standards: Ord. 2001-23, Development Standards).

1.11 - Street vendors.

The following minimum standards shall apply to all requests for street vendor permits.

1. Street vendors shall be approved at a specific, permanent location.
2. Carts used for street vending shall be on wheels and the carts shall not be larger than 3 feet by 5 feet.
3. Only consumable products may be sold from a street vendor cart.
4. If located within a city or state right-of-way, encroachment permits and liability insurance shall be required.
5. If adjacent to or in front of a business not their own, the street vendor cart operator shall be responsible for obtaining permission of the affected business and property owner and shall submit written evidence of such permission.
6. If adjacent to or in front of a property listed in the Carson City historic district, review, approval and compliance with conditions of the HRC shall be required.
7. Electrical and gas services require review and approval of the building department and the fire marshall.
8. Approval of the health department is required for all food vendors.

9. Other conditions deemed appropriate by the commission or redevelopment advisory citizens committee, as applicable, may be required to mitigate any adverse impacts to adjoining properties and pedestrians.

(Ord. 2007-33 § 4, 2007: Ord. 2001-23, Development Standards).

1.12 - Outside storage.

Outside storage requires the following:

1. Storage areas shall be enclosed by a one hundred percent (100%) sight obscuring fence or wall permanently installed and maintained by a minimum height of six (6) feet. No materials and/or equipment shall be stored therein to a height exceeding that of the wall or fence.
2. Storage areas allowed as an accessory use in a commercial or Limited Industrial zoning district shall not occupy more than twenty percent (20%) of the lot area unless a Special Use Permit is first obtained.
3. Storage areas shall not be located within any required yard setback, or parking areas nor shall they be located in any way which interferes with normal traffic flow onto, within or from the lot, or which impedes sight distance at intersections, or which otherwise impedes driver visibility. In the case of gasoline service stations, storage areas shall not be permitted in the setback distance applicable to pump islands.
4. Outside storage is prohibited as a primary permitted use in the RC and GC districts.
5. Storage containers or other similar enclosures are allowed in the LI, GI and AIP districts, subject to approval of the Director. The storage containers themselves shall be screened from view from a public right-of-way by a one hundred percent (100%) site obscuring fence or wall six (6) feet in height (minimum).

(Ord. 2006-4 § 2 (part), 2006: Ord. 2001-23, Development Standards).

(Ord. No. 2008-33, § XIV, 9-4-2008)

1.13 - Fences, walls and hedges.

1. Fences, walls and hedges are a permitted use in all districts so long as such uses are consistent with health, safety and welfare of the community and in compliance with following regulations as outlined in this section. All retaining walls 4 feet or taller shall require a building permit. All block or masonry walls/fences 4 feet or taller shall require a building permit.
2. All fences and walls shall meet the requirements of the Building Code and Fire Code as currently adopted by Carson City.
3. Electrically charged or barbed fences are a permitted accessory use in CR, A, MH1A, SF5A, SF2A and SF1A districts. Such fences are a permitted accessory use in all other use districts only with the prior written approval of the director or his designee.
4. The height of a fence, wall or hedge shall be measured from the highest adjacent ground, either natural or filled, upon which it is located, except within 15 feet of any front property line or within 30 feet of any street intersection, wherein all base measurements shall be considered from an extension of street grade.
5. A fence, wall or hedge not exceeding 6 feet in height may be located within any yard except as follows:

a. No fences, walls or hedges exceeding 4 feet in height shall be permitted within a front yard setback or within 5 feet of the property line on the street side. When such fence is constructed of a sight-obscuring material, it shall not exceed 3 feet in height; and

b. A maximum 5 foot tall split rail fence within SF5A, SF2A, SF1A and MH1A districts are not restricted by this section and may be located along or within the front yard or street side yard property line or setback; and

c. No fences, walls or hedges exceeding 3 feet in height, which obstruct vision to any significant degree, shall be permitted within sight distance areas as defined in Section 18.03 (Definitions);

d. For the purposes of this section only, picket fences, tight-railed fences, chain-link fences with slats, or wire fences with slats, are considered to be sight-obscuring.

6. The height of fences, walls or hedges, which in no way encroach upon setback requirements and conform with the Building Code as currently adopted by Carson City, shall be governed by building height restrictions for each use district.

7. Fences within setbacks may be permitted in excess of ordinance requirements by approval of a special use permit.

8. 6 foot high fences on flag lots may be located on the property line on all sides except portions of the parcel fronting on a public street must maintain a 10 foot setback for fences over 4 feet tall.

9. Driveway lots must maintain a sight distance area as defined in Section 18.03 (Definitions) measured from the property line intersection adjacent to the neighbor's driveway measuring a distance of 10 feet along both the common property line and along the street.

10. Where property lines may be in the center of the road, the boundary line for purpose of measuring setbacks are measured 30 feet from the centerline of the road with sight distance area requirements met in accord with Section 18.03 (Definitions).

11. When this title requires open storage to be screened by a fence or wall, the intent is to require items such as stacked materials to be screened, but not to require large equipment over 6 feet in height to be obscured by a fence or wall.

(Ord. 2006-4 § 2 (part), 2006: Ord. 2004-13 § 5, 2004: Ord. 2001-23, Development Standards).

1.14 - Cornices, porches and projections into setbacks.

1. Cornices, eaves, canopies, fireplaces, decks thirty (30) inches high or less, bay windows and similar architectural features, but not including flat walls, may extend into any required setback a distance not to exceed two (2) feet.

2. Uncovered porches may project not more than three (3) feet into any required side yard setback, and not more than six (6) feet into any required front or rear yard setback. Unenclosed covered porches with decks thirty (30) inches high or less may project into the front yard setback no more than eight (8) feet provided they are no less than five (5) feet from a front or street side property line; and do not impede sight distance area. All construction must comply with the Building Code currently adopted by Carson City.

3. Landing places, outside stairways, railings and guardrails may project not more than three (3) feet into any required front, side, street side or rear yard setback. Eaves over the encroaching landing places, outside stairways, railings or guardrails may extend, only over areas of encroachment, up to a maximum of three (3) feet into any required front, side, street side or rear yard setback.

(Ord. 2007-14 § 5, 2007: Ord. 2001-23, Development Standards).

(Ord. No. 2008-29, § IV, 8-7-2008)

1.15 - Manufactured home installation within a single family zoning district.

The following standards shall be used in the review of and the placement of a manufactured home in a single family zoning district.

1. The manufactured home shall be permanently affixed to a residential lot and converted to real property. A foundation permit is required. Foundations are to be designed by a Nevada licensed engineer to meet Carson City's requirements for wind, snow and seismic zone.
2. The manufactured home shall be manufactured within 5 years immediately preceding the date on which it is affixed to the single family zoned residential lot.
3. The owner/owner's agent shall provide written and photographic documentation that the manufactured home shall have:
    a. Siding which is similar in color, material and appearance to the exterior siding primarily used on other single family residential dwellings in the immediate vicinity of the proposed location of the manufactured home.
    b. Roof pitch/slope, eaves and roof covering which is consistent with those roofs primarily used on other single family residential dwellings in the immediate vicinity of the proposed location of the manufactured home.
    c. Foundation that is masked architecturally with materials primarily used on other single family residential dwellings in the immediate vicinity of the proposed location of the manufactured home.
4. For the purpose of this chapter, the term "primarily" shall mean "51 percent" and the term "immediate vicinity" shall mean "within 300 feet" of the subject parcel, excluding commercial, multi-family and industrial development.
5. The manufactured home shall consist of more than 1 section.
6. The manufactured home shall consist of at least 1,200 square feet of living area.
7. The owner/owner's agent shall provide written documentation that the subject site is not located within:
    a. An "A" flood zone.
    b. The historic district as recognized by Carson City pursuant to NRS 384.005 and NRS 384.100
8. The placement complies with all covenants, conditions and restrictions (CC&R's) of the subdivision where the manufactured home is proposed to be placed. The owner/owner's agent shall provide a copy of the CC&R's or written documentation of the non-existence of CC&R's within the subject area.
9. If there are no single family residential dwelling units in the immediate vicinity, a minimum 4:12 roof pitch/slope is required and a minimum eave length of 12 inches is required.

CARSON CITY
RESIDENTIAL DISTRICT INTENSITY AND DIMENSION STANDARDS

Site Development Standards

Zoning District	Minimum	Maximum	Minimum	Maximum	Maximum	Minimum	Minimum	Minimum	Minimum

s	Parcel Area (Acres or Sq. Ft.)	Density	Lot Width (Feet)	Lot Depth (Feet)	Height (Feet)	Setbacks (Feet) Front	Setbacks (Feet) Side	Setbacks (Feet) Street Side	Setbacks (Feet) Rear
SF5A [1]	5 AC	1 per 5 AC parcel	200 [9]	N/A	40*	100	50	50	50
SF2A [1]	2 AC	1 per 2 AC parcel	200 [9]	N/A	32*	50	20	20	30
SF1A [1]	1 AC	1 per 1 AC	120 [9]	360 [7]	32*	30	15	20	30
SF21 [1]	21,000 SF	1 per 21,000 SF parcel	80 [9]	240 [7]	26*	20	10	15	20
SF12 [1]	12,000 SF	1 per 12,000 SF parcel	70 [9]	210 [7]	26*	20	10	15	20
SF6 [1]	6,000 SF 6,500 SF Corner	1 per 6,000 SF parcel/ 6,500 SF corner parcel	60 [9]	180 [7] (120 cul-de-sac)	26*	20 [2]	5 [2]	10	10 [3]
MH6 [1]	6,000 SF 6,500 SF Corner	1 per 6,000 SF parcel	60 [9]	180 [7]	26*	20	5	10	10 [3]
MH12 [1]	12,000 SF	1 per 12,000 SF parcel	70 [9]	210 [7]	26*	20	10	15	20

MH1A (1)	1 AC	1 per acre	120 (9)	360 (7)	32*	30	15	20	30
MFD	6,000 SF	1 or 2 per 6,000 SF parcel	60 (9)	150	26*	20	5 (4)	10	10 (3)
MHFA (8)	6,000 SF	29-36; 1,200 SF of land area/1 bedroom units or studios and/or 1,500 SF of land area/2 bedroom or more units	60 (9)	150	45*	20	10 (4) (5)	15	20 (5)
MHP	1 AC	N/A	N/A	N/A	NIA	10 (6)	10 (6)	10 (6)	10 (6)
RO (1)	6,000 SF	7.26	60 (9)	150	35*	20	10	15	20

Additional Requirements or Allowances:

* Additional height allowed by Special Use Permit.

(1) Only 1 main building or home is allowed per 1 parcel.

(2) Varied setbacks are permitted in accordance with Division 1.17 of the development standards.

(3) All portions of a structure exceeding 20 feet in height must be a minimum of 20 feet from the rear property line.

(4) Side setback may be waived if 2 adjacent structures are subject to the latest adopted edition of the Uniform Building Code.

(5) For each story above 1 story, add 10 feet if adjacent to a single family district.

(6) Park perimeter only; see Division 10 of the development standards for interior space/setback requirements.

(7) Maximum lot depth is 3 times the minimum lot width except as necessary to meet minimum parcel size.

(8) Open Space. Each parcel of land must contain a single, continuous tract of land designated as an open area of not less than 150 square feet per dwelling unit, reserved exclusively for the common recreational use of the tenants on such parcel. 50 percent of the required common open space shall be softscape as listed in definitions. Only 25 percent of the total required open space requirement may be within an enclosed recreation facility. The required open space must not be contained within any of the required front yard or side yard setback abutting a street. In addition, there must be an open space area at least 100 square feet in size either contiguous to each dwelling unit for the exclusive use of the resident of that dwelling unit, or that space added to the requirements of this section.

(9) 54 feet minimum street frontage at the end of a cul-de-sac.

CARSON CITY
NON-RESIDENTIAL DISTRICT INTENSITY AND DIMENSION STANDARDS

Site Development Standards

Zoning Districts	Minimum Area (SF or AC)	Minimum Lot Width (Feet)	Maximum Lot Depth (Feet)	Maximum Height (Feet)	Minimum Setbacks (Feet) Front	Minimum Setbacks (Feet) Side	Minimum Setbacks (Feet) Street Side	Minimum Setbacks (Feet) Rear
RO	6,000 SF [4]	60 [12]	150	35 [1]	20 [8]	10 [5]	15 [5, 8]	20 [8]
GO	6,000 SF [4]	60	150	50 [1]	15 [8]	10	10 [8]	20 [6, 8]
NB	9,000 SF [4]	75	N/A	26 [1]	0 [7, 8]	0 [7]	0 [7, 8]	0 [7, 8]
RC	6,000 SF [4]	50	N/A	45 [1]	0 [7, 8]	0 [7]	0 [7, 8]	0 [7, 8]
GC	6,000 SF	60	N/A	45 [1]	0 [7, 8]	0 [7]	0 [7, 8]	0 [7, 8]

TC	6,000 SF	60	N/A	45 [1]	0 [8]	0 [7]	0 [8]	0 [8]
DC	6,000 SF	50	N/A	45 [1, 2]	0 [8, 9]	0 [9]	0 [8, 9]	0 [8, 9]
LI	21,000 [4]	100	N/A	32 [1]	30 [8, 10]	10 [10, 11]	10 [8, 10]	30 [8, 10, 11]
GI	12,000 SF [4]	120	N/A	45 [1]	30 [8, 10]	0 [10]	0 [8, 10]	0 [8, 10]
AIP	20,000 SF	100	N/A	45 [1]	30 [8]	20	20 [8]	30 [8]
CR	20 AC	300	N/A	40 [1]	30	20	20	30
A	20 AC	300	N/A	40 [1]	30	20	20	30
P	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]
PN/PC/PR	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]	N/A [3]

Additional Requirements or Allowances:

1. Additional height allowed by special use permit.

2. In accordance with the restrictions outlined in the downtown master plan element for building heights of structures located within 500 feet of the State Capital.

3. Building height, building setbacks, minimum area, minimum lot width, and maximum lot depth to be determined by special use permit.

4. For each main structure.

5. Side setback may be waived if 2 adjacent structures are connected by a parapet fire wall.

6. Rear yard shall be increased by 10 feet for each story above 2 stories. Where the rear yard abuts a commercial district, the setback is zero feet.

7. Adjacent to Residential District, 30 feet is required. Corner lots require setback for sight distance.

8. Business Arterial landscape setback requirement = 10 feet (average).

9. Adjacent to Residential District, 10 feet required. Corner lots require setback for sight distance.

10. 50 feet adjacent to Residential District.

11. If Adjacent to Limited Industrial (LI) District, the side and rear yard setbacks may be reduced to zero subject to applicable building and fire codes.

12. 54 feet minimum street frontage at the end of a cul-de-sac.

13. Except in the CR, A, P, PN, PC and PR zoning districts, minimum area includes all common areas, parking, landscaping and building areas associated with a project for the purposes of creating building envelopes or condominium units where common access is provided to the project site.

(Ord. 2007-33 § 3, 2007; Ord. 2004-10 § 2, 2004: Ord. 2003-20 § 2, 2003: Ord. 2003-13 § 2, 2003: Ord. 2001-23, Development Standards).

1.16 - Youth recreation facilities performance standards.

The following performance standards shall be considered in review of individual special use permit requests for youth recreation facilities with residential zoning districts in addition to other development standards.

1. Design and Development Standards.
    a. Lot size shall be a minimum of 3 acres.
    b. Youth recreation facilities within residential zoning district shall be located a minimum of one mile from other facilities or separated by Highway 395, Highway 50, or the freeway right-of-way.
    c. A facility for youth recreation should be designed to enhance the character of the surrounding neighborhood.
    d. The availability of public facilities, services and utilities.
    e. The pedestrian, bicycle, and motor vehicle traffic generated by the facility and how it relates to the existing circulation plans shall be considered. Circulation patterns and pick-up/drop-off areas for users of the facilities shall be designed to minimize negative impacts to surrounding properties while providing safe and convenient pedestrian, bicycle, and vehicular traffic movements and access to the site.
    f. Landscaping should be designed to enhance the character of the surrounding area and shall include deciduous trees and a variety of decorative plantings and shrubs.
    g. Lighting shall be designed with residential character and shall be shielded to eliminate glare onto adjoining properties.
    h. All structures shall meet a minimum setback of 50 feet from adjacent residential property lines. Active outdoor recreation use areas such as ball fields, courts, and play equipment shall be setback a minimum of 25 feet from adjacent residential properties.
    i. Fencing and/or screening shall be located along the perimeter of the site abutting residential properties. Fencing/screening should be sufficient to minimize noise and visual impacts to adjacent properties.

j. Loading and unloading areas shall be located at or near the rear of the building and away from and/or screened from adjacent streets and abutting residential properties.

2. Operational and Program Standards.

a. Programs designed for the users may include but not be limited to leadership programs, education and career guidance, health and life skills, arts, sports, fitness, recreation and specialized programs.

b. Programs should be scheduled at times that noise will not be a problem for surrounding areas.

c. Hours of operation shall be such that indoor activities and programs are completed 10:00 p.m. weekdays and 11:00 p.m. weekends. Outdoor activities shall be completed by 9:00 p.m. weekdays and 10:00 p.m. on weekends.

d. The facility shall have a minimum of 1 instructor, with appropriate training, per 20 youth.

(Ord. 2002-37, Development Standards).

1.17 - Multi-family apartment (MFA) development standards.

The following standards are intended to establish minimum standards for residential development within the Multi-Family Apartment (MFA) zoning district.

1. Maximum permitted density:

a. For one-bedroom or studio units, one (1) unit per one thousand two hundred (1,200) square feet of area.

b. For two (2) or more bedroom units, one (1) unit per one thousand five hundred (1,500) square feet of area.

2. Maximum building height: Forty-five (45) feet.

3. Setbacks:

a. Front yard: Ten (10) feet, plus an additional ten (10) feet for each story above two (2) stories; minimum driveway approach from property line to garage doors is twenty (20) feet.

b. Side yard: Ten (10) feet for external project boundaries; minimum ten (10) feet between residential structures for internal setbacks. Where a side yard is adjacent to a single-family zoning district, an additional ten (10) feet is required for each story above one (1) story.

c. Street side yard: Ten (10) feet, plus an additional five (5) feet for each story above two (2) stories; minimum driveway approach from property line to garage doors is twenty (20) feet.

d. Rear yard: Twenty (20) feet. Where a rear yard is adjacent to a single-family zoning district, an additional ten (10 feet is required for each story above one (1) story.

4. Required parking: Two (2) spaces per dwelling unit; and in compliance with the Development Standards Division 2, Parking and Loading.

5. Open Space:

a. For Multi-Family Residential development, a minimum of 150 square feet per dwelling unit of common open space must be provided. For projects of 10 or more units, areas of common open space may only include contiguous landscaped areas with no dimension less than 15 feet, and a minimum of 100 square feet per unit of the common open space area must be designed for recreation, which may include but not be limited to picnic areas, sports courts, a softscape surface covered with turf, sand or similar materials acceptable for use by young children, including play equipment and trees, with no dimension less than 25 feet.

b. For Multi-Family Residential development, a minimum of 100 square feet of additional open space must be provided for each unit either as private open space or common open space.

c. For Single-Family Residential development or Two-Family Residential development, a minimum of 250 square feet of open space must be provided for each unit either as private open space or common open space.

d. Front and street side yard setback areas may not be included toward meeting the open space requirements.

6. Landscaping. Landscaping shall comply with the Development Standards Division 3, Landscaping.

(Ord. 2007-14 § 6, 2007).

(Ord. No. 2008-37, § IV, 12-4-2008 ; Ord. No. 2017-15 , § I, 7-6-2017)

1.18 - Residential development standards in non-residential districts.

The following standards are intended to establish minimum standards and Special Use Permit review criteria for residential development within the Neighborhood Business (NB), Retail Commercial (RC), General Commercial (GC), Residential Office (RO) and General Office (GO) zoning districts.

1. Permitted uses. Residential uses are only allowed as permitted by Chapter 18.04, Use Districts, as a primary or conditional use in the applicable zoning districts.

2. Maximum permitted density. There is no maximum residential density within non-residential zoning districts subject to meeting the height, setback, parking and open space requirements of this chapter.

3. Maximum building height shall be the maximum height established by the zoning district in which the project is located.

4. Setbacks. Minimum setbacks shall be those established by the zoning district in which the project is located, subject to the following:

   a. In the NB, RC, GC and GO zoning districts, a minimum setback of twenty (20) feet is required adjacent to a residential zoning district, with an additional ten (10) feet for each story above one (1) story if adjacent to a single-family zoning district.

   b. A minimum setback of ten (10) feet is required from the right-of-way of an arterial street as identified in the adopted Transportation Master Plan, excluding the Downtown Mixed-Use area.

5. Required parking: Two (2) spaces per dwelling unit; and in compliance with the Development Standards Division 2, Parking and Loading.

6. Open Space.

   a. For Multi-Family Residential development, a minimum of 150 square feet per dwelling unit of common open space must be provided. For projects of 10 or more units, areas of common open space may only include contiguous landscaped areas with no dimension less than 15 feet, and a minimum of 100 square feet per unit of the common open space area must be designed for recreation, which may include but not be limited to picnic areas, sports courts, a softscape surface covered with turf, sand or similar materials acceptable for use by young children, including play equipment and trees, with no dimension less than 25 feet.

   b. For Multi-Family Residential development, a minimum of 100 square feet of additional open space must be provided for each unit either as private open space or common open space.

c. For Single-Family Residential development or Two-Family Residential development, a minimum of 250 square feet of open space must be provided for each unit either as private open space or common open space.

d. Front and street side yard setback areas may not be included toward meeting the open space requirements.

7. Landscaping. Landscaping shall comply with the Carson City Development Standards Division 3, Landscaping.

8. Special Use Permit review standards. Where a residential use is a conditional use within a given zoning district, the Planning Commission shall make two (2) of the following findings in the affirmative in the review of the Special Use Permit in addition to the required findings of Section 18.02.080 of the Carson City Municipal Code.

   a. The development is not situated on a primary commercial arterial street frontage.

   b. The development is integrated into a mixed-use development that includes commercial development

   c. The applicant has provided evidence that the site is not a viable location for commercial uses.

   d. The site is designated Mixed-Use Commercial, Mixed-Use Residential or Mixed-Use Employment on the Master Plan Land Use Map and the project meets all applicable mixed-use criteria and standards.

(Ord. 2007-14 § 7, 2007).

(Ord. No. 2008-37, § V, 12-4-2008 ; Ord. No. 2017-15 , § II, 7-6-2017)

1.19 - Adult merchandise retail establishment performance standards.

The following performance standards are mandatory requirements in the review of business licenses for Adult Merchandise Retail Establishments.

1. The floor area devoted to material defined in "Adult Merchandise Retail Establishment" does not exceed up to five percent (5%) of the total display or retail floor area of the business or two hundred (200) square feet, whichever is less;

2. The material is available only for sale or lease for private use by the purchaser or lessee off the premises of the business;

3. The floor area devoted to material as defined in "Adult Merchandise Retail Establishment" is segregated by partition, separate entrance or otherwise obscured from casual observance by minors;

4. The floor area devoted to material defined in "Adult Merchandise Retail Establishment" is clearly signed to prohibit access to minors;

5. The floor area devoted to material defined in "Adult Merchandise Retail Establishment" is adequately staffed by persons over eighteen (18) years of age to assure monitoring of minors who may seek access to the restricted floor area;

6. The business does not advertise or hold itself out to the public in any way as being an adult merchandise retail establishment, whether by store window displays, signs or other means;

7. The business cannot be combined with any other area or business to result in an increase in the floor area devoted to this activity beyond the maximum specified in (1) above;

8. No product for sale or gift, picture or other graphic representation thereof, shall be displayed so as to be visible form the street or exterior of the building;

9. At the time of the business license request, the applicant shall provide a detailed site plan designating the proposed Adult Merchandise Retail Establishment area, as it relates to the total floor area of the business;

10. Adult Merchandise Retail Establishments established prior to November 7, 2007 which do not comply with the provisions of Division 1.19 Adult Merchandise Retail Establishment shall be deemed non-conforming and may continue to operate as approved by the criteria identified in their approved Carson City Business License.

11. Nonconforming Adult Merchandise Retail Establishments shall not relocate in Carson City unless the establishment comes into full compliance with the current code and development standards.

12. No Adult Merchandise Retail Establishment shall be located within one thousand (1,000) feet of any other Adult Merchandise Retail Establishment or Adult Entertainment Facility.

13. Location Criteria. Adult Merchandise Retail Establishments may be located only in Retail Commercial (RC), General Commercial (GC), Limited Industrial (LI), and General Industrial (GI) zoning districts and provided that the business comply with all performance standards.

(Ord. 2007-37 § 2, 2007).

(Ord. No. 2008-33, § XV, 9-4-2008)

1.20 - Medical Marijuana Establishments and Marijuana Establishments.

The following standards are intended to establish minimum standards and Special Use Permit review criteria for Medical Marijuana Establishments and Marijuana Establishments, in addition to other standards for commercial and industrial development.

1. The following standards apply to all Medical Marijuana Establishments and Marijuana Establishments:

   a. All Medical Marijuana Establishments and Marijuana Establishments require the issuance of a Special Use Permit. Special Use Permits for Medical Marijuana Establishments and Marijuana Establishments are only valid at the specific location for which a person has obtained the required approval through the applicable state agency to operate as a Medical Marijuana Establishment or Marijuana Establishment. A Special Use Permit that is issued in accordance with this Division automatically expires and shall be deemed null and void if the Medical Marijuana Establishment or Marijuana Establishment loses or otherwise forfeits the required state approval to operate. A Special Use Permit issued in accordance with this Division is not transferable between operators and locations within Carson City. Except as otherwise provided in this Division and notwithstanding any other provision of CCMC, a separate Special Use Permit is not required for a Medical Marijuana Establishment or Marijuana Establishment that will be established in an existing location at which a Medical Marijuana Establishment or Marijuana Establishment in good standing already operates. The expansion of any location of a Medical Marijuana Establishment or Marijuana Establishment that will result in an increase of more than ten (10) percent of the space in which the Medical Marijuana Establishment or Marijuana Establishment has been approved to operate requires the issuance of an amended Special Use Permit.

   b. The consumption of marijuana products is prohibited on the premises of any Medical Marijuana Establishment and Marijuana Establishment.

   c. All business activities related to Medical Marijuana Establishments and any marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or retail marijuana store must be conducted indoors and within a permanent building. The use of an office trailer or other temporary structure is prohibited. All Medical Marijuana

Establishments and Marijuana Establishments must at all times maintain an interior and exterior appearance that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices.

d. The outdoor display or sale of any Medical Marijuana Establishment or Marijuana Establishment merchandise or product is prohibited.

e. Accessory outside storage for Medical Marijuana Establishments and Marijuana Establishments must comply with the provisions of Title 18 Appendix (Carson City Development Standards), Division 1.12 (Outside Storage).

f. Access to Medical Marijuana Establishment or Marijuana Establishment must comply with all applicable state and federal laws and regulations.

g. Medical Marijuana Establishment and Marijuana Establishment merchandise and products must not be visible when viewed from outside the building in which the Marijuana Establishment or Marijuana Establishment is located.

h. All signage for Medical Marijuana Establishments and Marijuana Establishments must be discreet, professional and consistent with the traditional style of signage for pharmacies and medical offices. All signage for Medical Marijuana Establishments and Marijuana Establishments must satisfy the requirements set forth in Division 4, except that the height of a freestanding sign for the following facilities is limited to not more than ten (10) feet, as consistent with sign height requirements for industrial uses:

(1) Medical Marijuana Cultivation Facility and Marijuana Cultivation Facility.

(2) Medical Marijuana Product Manufacturing Facility and Marijuana Product Manufacturing Facility.

(3) Medical Marijuana Testing Facility and Marijuana Testing Facility.

i. Off-street parking must be provided for Medical Marijuana Establishments and Marijuana Establishments in accordance with the following:

(1) For Medical Marijuana Dispensaries and Marijuana Retail Stores: A minimum of one space for every 300 square feet of gross floor area.

(2) For Medical Marijuana Cultivation Facilities and Marijuana Cultivation Facilities: A minimum of one space for every 1,000 square feet of gross floor area.

(3) For Medical Marijuana Product Manufacturing Facilities and Marijuana Product Manufacturing Facilities: A minimum of one space for every 500 square feet of gross floor area.

(4) For Medical Marijuana Testing and Marijuana Testing Facilities: A minimum of one space for every 400 square feet of gross floor area.

j. Notwithstanding any other provision of CCMC, not more than two Medical Marijuana Dispensaries are allowed to operate at the same time in Carson City.

k. A Marijuana Retail Store may only be jointly located within the same premises of an existing Medical Marijuana Dispensary that is operating in good standing.

l. A Medical Marijuana Establishment or Marijuana Establishment is prohibited within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12, or within 300 feet of a facility that provides day care to children, a public park, a playground, a public swimming pool, and any other center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents, which already exists on the date the application for the proposed Medical Marijuana Establishment or Marijuana Establishment is submitted to the applicable state agency for approval to operate, as measured on a straight line

from the property line of the nearest such school or facility to the front door or primary entrance of the Medical Marijuana Establishment or Marijuana Establishment.

2. The following standards apply to all Medical Marijuana Dispensaries:

   a. A single point of secure public entry must be provided and identified.

   b. Hours of operation are limited to between 7:00 a.m. and 8:00 p.m., daily.

   c. Drive-through service is prohibited.

   d. A Medical Marijuana Dispensary or Retail Marijuana Store is prohibited on any property, or within a shopping center with frontage, that is located on the same street on which a residentially zoned property is also located unless the dispensary or store is located more than 300 feet from the residential property, as measured on a straight line from the nearest residential property line abutting the street right-of-way to the front door of the dispensary or store.

3. In addition to the required findings for a Special Use Permit, the following standards must also be considered in the review of a request for a Special Use Permit for a Medical Marijuana Dispensary or Marijuana Retail Store to be located within the General Industrial zoning district:

   a. That the proposed Medical Marijuana Dispensary or Marijuana Retail Store is located where sufficient, convenient and safe access is provided to the public.

   b. That the proposed location has adequate lighting and street improvements for a use providing public access.

(Ord. No. 2014-10, § IV, 7-3-2014; Ord. No. 2017-21 , § VI, 10-5-2017)

Carson City Municipal Code
15.05.020 Section 105

SECTION 105 - PERMITS

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Permits for commercial buildings shall be issued only to persons in conformance with Nevada State Contractors law.

105.1.1 Annual permit. In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefore to any person, firm or corporation regularly employing one or more qualified trade persons in the building, structure or on the premises owned or operated by the applicant for the permit.

105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m^2).
2. Fences not over 6 feet (1829) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1.
6. Patios, decks, sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of Group R-3 and U occupancies.
13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

14. Roofing repair if the roof is less than 100 square feet.

15. Door and window replacement when the opening size and location remain the same.

16. For glass only replacements (commercial store fronts) in an existing sash and frame, when minor in scope and located in the same elevation.

Electrical:

Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and television transmitting stations:

The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliance.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.

2. Portable ventilation equipment.

3. Portable cooling unit.

4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

105.2.2 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or

portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

105.2.3 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the building division for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.
8. Prior to issuance of a permit to move or demolish a building or structure, a minimum $5,000.00 bond shall be posted to guarantee full compliance with all terms and conditions as specified on the application.
9. Exception: With approval of the building official, small structures that don't pose a hazard may be demolished without posting a bond.

MIKE PAVLAKIS
KAREN A. PETERSON
JAMES R. CAVILIA
CHRIS MACKENZIE
DAWN ELLERBROCK
RYAN D. RUSSELL
JOEL W. LOCKE

JUSTIN TOWNSEND
S. JORDAN WALSH
KYLE A. WINTER
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ANDREW MACKENZIE
PATRICK V. FAGAN
CHARLES P. COCKERILL
JOAN C. WRIGHT
OF COUNSEL

MIKE SOUMBENIOTIS
(1932-1997)

March 28, 2018

Dear Planning Commissioners:

I am appearing today on behalf of Mr. Gibbons, who is the manager of Equity Management Services, LLC, which is the Trustee of the Ponderosa EQ Land Trust, which owns 3809 Ponderosa Drive.

Mr. Gibbons received a final violation notice from the City regarding his fence and storage on his property. Staff's letter states that he must either reduce the height of the fence, or obtain a special use permit. However, it also states that staff would not support the issuance of a special use permit. With respect to the storage, the letter states that he must apply for a building permit.

We request that the Commission reverse staff's determination on both of these issues. Briefly, the relevant facts and timeline are as follows:

- The property in question is approximately 1 acre in size, and is zoned SF1A.
- In July 2015, Mr. Gibbons began building his fence. It took approximately a year and a half to complete, and was fully and finally completed in September 2016.
- In the summer of 2016, Mr. Gibbons received a phone call from the City stating that the wrought iron panels were too tall. He discussed his disagreement with that assertion. He did not receive any written notice of a violation or any other directive from the City to change the fence or apply for a special use permit.
- In late 2016, Mr. Gibbons, his neighbors, and the City became involved in a dispute involving an easement reserved by the City in 1987 when it abandoned that part of Hickory Drive that abuts the east boundary of the property.
- In early 2017, Mr. Gibbons instituted a lawsuit to determine the various parties' rights under the easement. The defendants were his neighbors, Tom and Vickie Purcell, Charles and Robin Sweet, Cody and Amie Oden, Jacob and Lauren Castro, the Allums, as well as Carson City.
- In May of 2011, Ponderosa EQ placed a rented cargo container in the center of the property in order to store tools, supplies, and equipment. This cargo container sat on the property continuously from May 2011 through March of 2017. It was plainly visible from the street and was present when City Code Inspection made their inspection of the gas meter relocation on June 22, 2016. There was never any complaint or other problem with that cargo container. That cargo container was removed in March, 2017.
- In about June 2017, Ponderosa EQ placed two new cargo containers on the property.

- The prior cargo container had been on the property for six years or more, without any complaints or other issues.
- In about mid May 2017, Mr. Gibbons found a Red Tag on the gate of the Ponderosa property. He called the City the very next day and spoke to Kathe Green. Ms. Green indicated that the concrete slabs that had just been poured appeared to be for a building for which there was no permit on file. Mr. Gibbons explained to Ms. Green that they were replacing the former container with 2 new containers and wanted them to sit on concrete slabs rather than on the bare ground. Ms. Green gave no indication in that conversation that there was any problem whatsoever with replacing the container to a concrete slab.
- In late 2017, Mr. Gibbons covered the containers with a siding and trim facade to give the cargo containers the appearance of more traditional storage sheds.
- On January 5 2018, Ponderosa EQ received a letter dated December 29, 2017 from the City, asserting for the first time that his fence was in violation.
- The same day, a second letter was received that alleged for the first time that the containers were in violation.
- On January 23, 2018, Mr. Gibbons sent two letters disputing the City's assertions.
- The City sent a final notice of violation on February 5, 2018, which asserts that Ponderosa EQ must: (1) reduce the height of the fence or obtain a special use permit; and (2) that it must apply for a building permit for the storage.
- The February 5, 2018 letter also noted Ponderosa EQ's right to appeal staff's interpretation of the code.
- Ponderosa EQ, through Mr. Gibbons, timely filed a letter of appeal.

The Fence

When he built the fence, Mr. Gibbons reasonably relied on Section 1.0 of the Appendix to Title 18, which states "These design standards have been prepared to foster quality design of **office, commercial, multi-family, public, industrial and institutional projects** within Carson City." (Emphasis added.) Single family residential is not mentioned. Thus the plain language of Section 1.0 shows that "these design standards" (i.e., all the standards that follow in the Appendix) are not intended to apply to a typical single-family residential home.

Furthermore, the design standards for fences are arbitrary as applied to single-family residences. As stated in Section 1.0, the purpose is to improve the quality of design for non-single family uses. There is no rational basis for imposing the restrictions on single-family parcels, nor is there any basis to distinguish between a five-foot high split-rail fence, and other types of non-sight-obstructing fences. Even assuming the code applies to SFA1 parcels, it lacks any reasonable or rational basis, and is therefore invalid.

Additionally, Staff state that they became aware of Mr. Gibbons' fence in March of 2016. Yet no enforcement action was taken for nearly two years. Enforcement only occurred after the dispute regarding the easement developed. The enforcement therefore appears to be in retaliation for Mr. Gibbons initiating a lawsuit regarding the easement.

Storage

Staff's letter also directs Mr. Gibbons to apply for a building permit for the "buildings" surrounding his storage containers. No building permit is required because there is no building. The siding and trim is attached directly to the container. It is not a structure with walls or a roof, therefore no building permit is required.

Additionally, the storage is well within the size restrictions for an accessory use. The storage is, cumulatively, 640 square feet. This is less than both 50% of the main residence (50% of 2331 square feet is 1165 square feet), and less than 5% of the total parcel size (5% of 39,617 is 1980 square feet).

Arbitrary and Capricious Enforcement

Finally, this is a clear case of selective enforcement. Enclosed is a map and pictures of various other fences and metal storage containers within Mr. Gibbons' immediate neighborhood. There are nearly two dozen separate examples of the same violations that the City is attempting to enforce against Mr. Gibbons.

The Nevada Supreme Court recognized that it is arbitrary and capricious to enforce a municipal code differently against similarly situated land owners, and that doing so also could violate equal protection. *See City of Las Vegas v. 1017 S. Main Corp.*, 110 Nev. 1227, 1134–35, 885 P.2d 552, 556–57 (1994).

Mr. Gibbons is being singled out for enforcement. Considering that Staff was aware of his fence for nearly two years, yet no enforcement occurred until after the dispute with the easement occurred. This further shows that the enforcement against Mr. Gibbons is in retaliation for exercising his rights to access the courts.

For these reasons, and the arguments and evidence we will present at the hearing, we respectfully request the Commission to reverse Staff's determination that Mr. Gibbons must reduce the height of his fence and that he must apply for a building permit.

Sincerely,

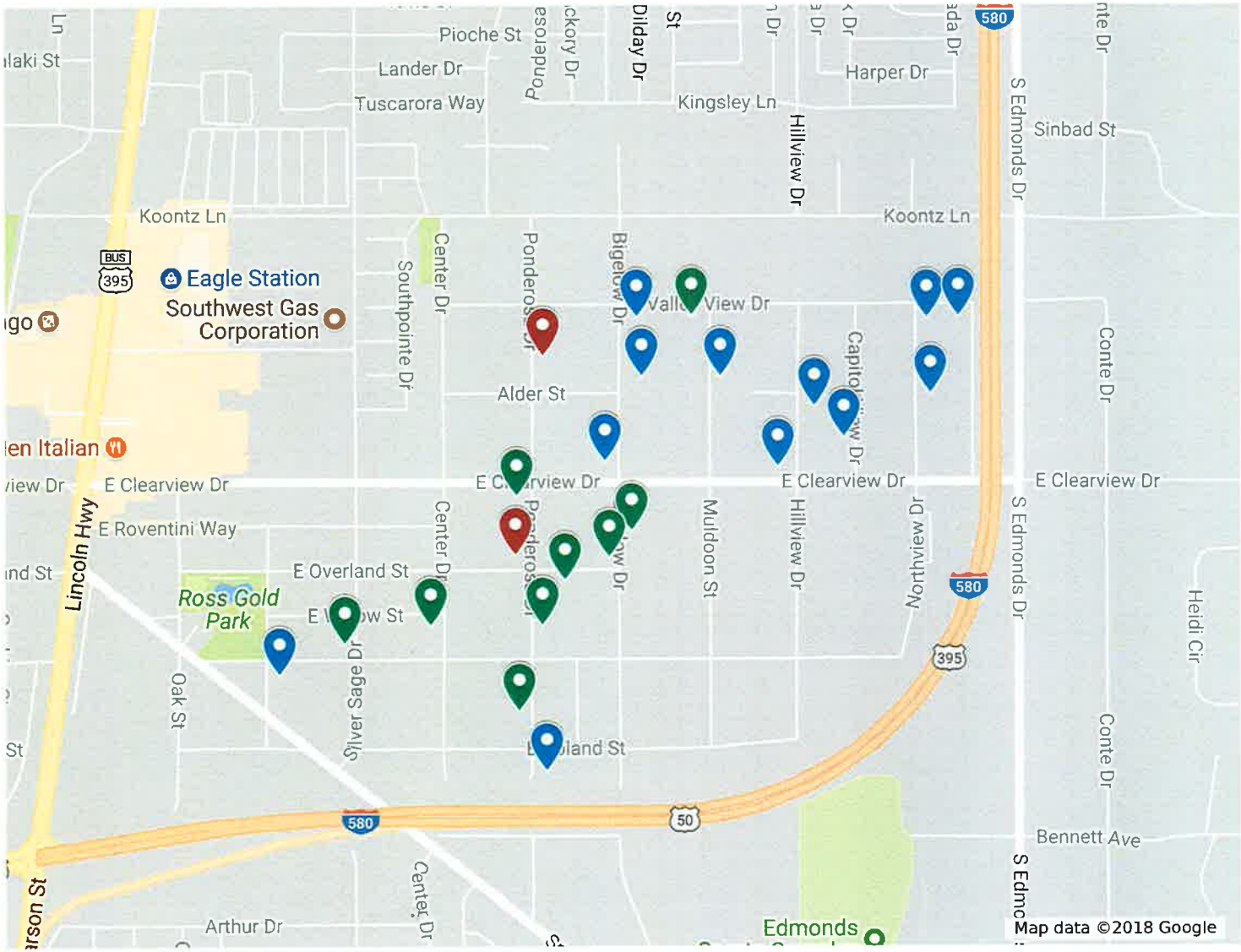
ALLISON MacKENZIE, LTD.

By: _____
KEVIN BENSON, ESQ.

Fences and Containers

Fences and containers

- 870 E Overland St
- 4053 Bigelow Dr
- 4280 Bigelow Dr
- 4433 Bigelow Dr
- 4779 California St
- 4220 Capitol View Dr
- 4646 Center Dr
- 871 E Clearview Dr
- 1530 E Clearview Dr
- 951 E Overland St
- 1070 E Overland St
- 4139 Hillview Dr
- 4051 Muldoon St
- 4129 Northview Dr
- 4019 Ponderosa Dr
- 4627 Ponderosa Dr
- 4830 Ponderosa Dr
- 4949 Ponderosa Dr
- 4690 Silver Sage Dr
- 1143 Valley View Dr
- 1269 Valley View Dr
- 1713 Valley View Dr
- 1721 Valley View Dr



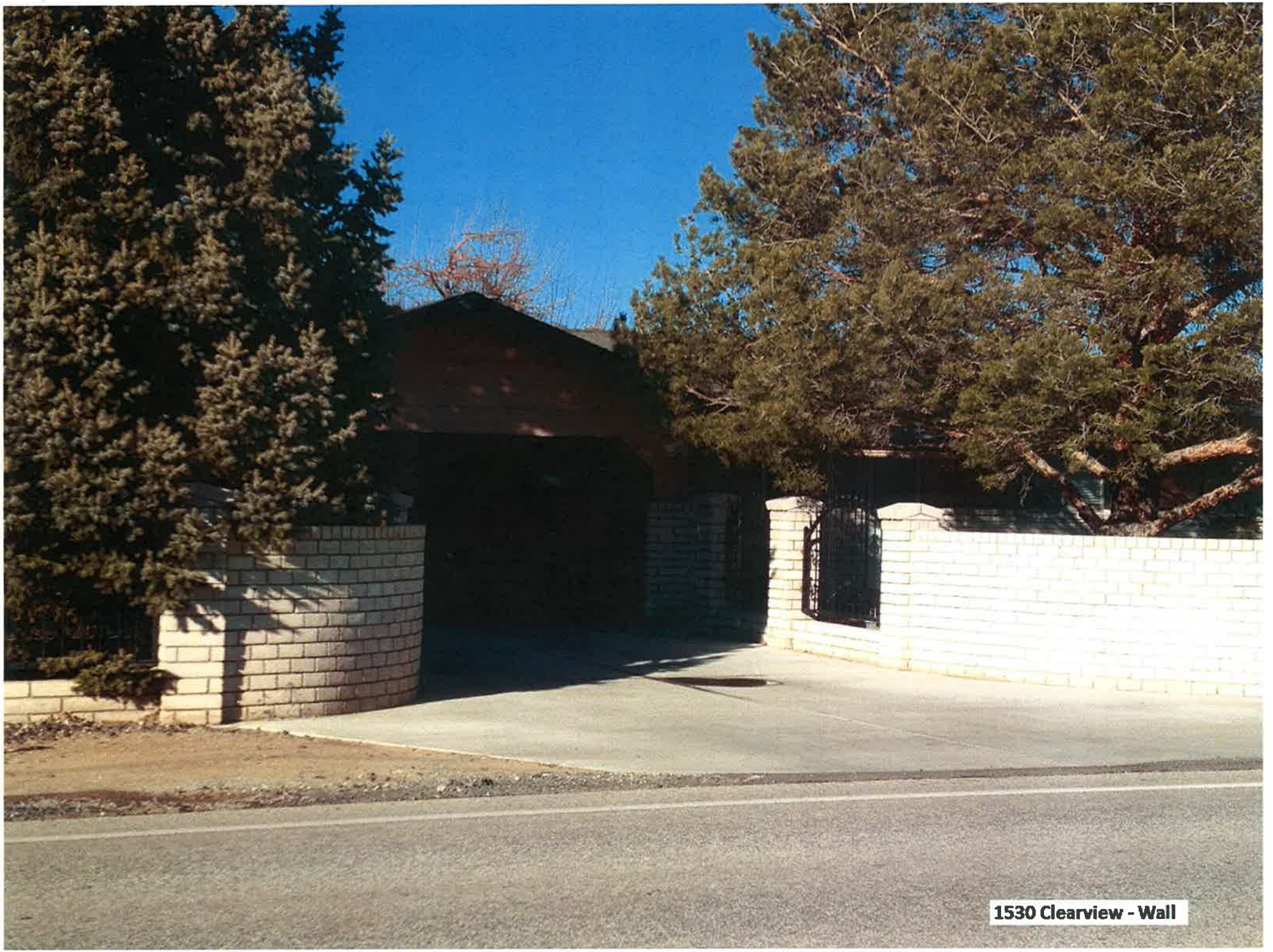
Blue = fence
Green = container / large truck body
Red = both


870 E Overland - Concrete + chain link


870 Overland - 5ft+ solid wall
870 Overland - Solid block wall 5+ft

1143 Valley View - Fence


1143 Valley View - Fence


1530 Clearview - Wall


4129 Northview - Wall

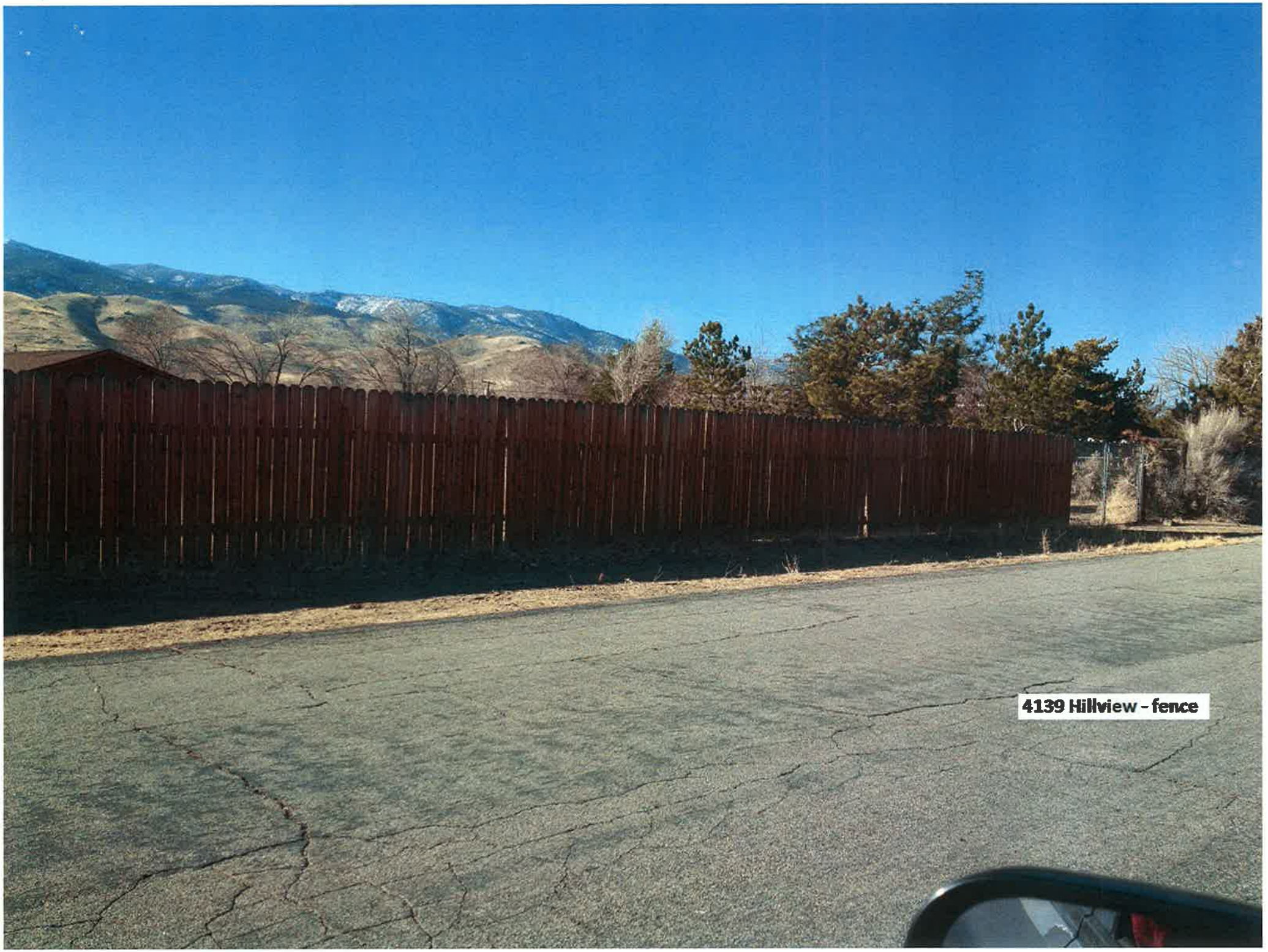

4280 Bigelow - Fence


1713 Valley View - Wall


4051 Muldoon - Fence


4051 Muldoon - Fence


4949 Ponderosa - Fence


4139 Hillview - fence


4779 California - Fence


1269 Valley View - container


1070 Overland - Container


1070 E Roland - Container


4433 Bigelow - Container

4690 Silver Sage - containers


870 Overland - Container


871 Clearview - container


951 Overland - containers


950 E Roland - Container

Mr. Gibbons' storage