



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** March 7, 2019

Staff Contact: Lee Plemel, AICP, Director

Agenda Title: For Possible Action: Discussion and possible action regarding a determination of whether Ms. Ann Sullivan, owner of Capital City Liquidators located at 3390 S. Carson Street, is in full compliance with the outside storage requirements stipulated in the agreement between Ann Sullivan and Carson City for the purposes of resolving the issue of repeated violations of the outside storage requirements and the potential business license revocation. (Lee Plemel, lplemel@carson.org)

Staff Summary: The Board of Supervisors conducted a show cause hearing on December 6, 2018, to determine if the business license for Capital City Liquidators should be revoked, canceled or suspended for repeated code violations regarding outside storage. The Board of Supervisors took no action at that meeting, based on the representation from the business owner that she would enter into an agreement with the City, which required that the storage at the business location be brought into compliance by March 6, 2019, or the business license would be surrendered. The Board of Supervisors is required to make a determination regarding compliance per the terms of the agreement between the business owner and Carson City.

Agenda Action: Formal Action / Motion **Time Requested:** 15 Minutes

Proposed Motion

I move to determine that the owner of Capital City Liquidators [is/is not] in full compliance with the Carson City outside storage requirements [if determined to not be in full compliance: "and, therefore, the business license for Capital City Liquidators is revoked per the terms of the agreement."].

Board's Strategic Goal

Quality of Life

Previous Action

December 6, 2018: The Board of Supervisors conducted a show cause hearing to determine if the business license for Capital City Liquidators should be revoked, canceled or suspended for repeated code violations regarding outside storage. No action was taken by the Board at that meeting.

Background/Issues & Analysis

The Carson City Code Enforcement Division has been pursuing code compliance regarding outside storage at Capital City Liquidators since November 2015. Specifically, the Carson City Municipal Code, Title 18, limits the amount of outside storage in certain commercial zoning districts to 20% of the parcel area unless a Special Use Permit is obtained. Capital City Liquidators has had outside storage in excess of 40% of the parcel area without approval of a Special Use Permit. After numerous attempts to gain compliance, the Carson City Code Enforcement Division brought an item to the Board of Supervisors on December 6, 2018, for possible

revocation of the business license. At that meeting, the business owner agreed to bring the business into compliance within 90 days or surrender the business license.

The business owner signed an agreement (attached) with the City on December 11, 2018. The agreement stipulates that the business owner will bring the property into compliance with Carson City outside storage requirements by March 6, 2019, or the business owner will surrender her business license and stop business operations (see Section 4 of the agreement.).

The Community Development Department sent a courtesy notice (attached) to the business owner on February 12, 2019, to remind the business owner of the scheduled compliance check by Code Enforcement staff and the Board of Supervisors' review on March 7. The letter was also intended to make the expectations clear as to what constitutes 20% outside storage areas and what must be done to comply with the requirements.

As of the submittal of this staff report, February 22, 2019, the outside storage area on the property remained at well over 40% of the property area. Code Enforcement staff is scheduled to inspect the property on the morning of March 7 and report to the Board of Supervisors whether or not the outside storage areas were reduced to the maximum permitted area of 20% of the parcel size. City staff will report the results of this inspection at the meeting on March 7.

On Monday, February 25, the Community Development Department received a written request from the business owner's attorney requesting an additional 30 days to complete moving the fenced storage areas and materials within those areas. The letter states the request is due to weather conditions in January and February and their inability to move equipment because of conditions. The letter and photos submitted by the business owner are attached. As an alternative to the proposed action to determine compliance, the Board of Supervisors may grant an additional 30 days and continue the item to April 4, 2019.

For the complete background and documentation of the code violations relating to the subject property, refer to the Board of Supervisors packet from the meeting of December 6, 2018, agenda item 32(A).

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 4.04.210; 18.04.130 (Retail Commercial); Title 18 Appendix, Development Standards, Division 1.12 (Outside Storage)

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Planning/Code Enforcement operating budget 101-1425.

Is it currently budgeted? Yes

Explanation of Fiscal Impact: Unknown. City staff time for ongoing code compliance issues has a negative impact on city operational capacity. Total staff hours are not tracked, but they include Code Compliance Officer time working on monitoring and enforcement of the regulations, as well as Deputy District Attorney's time processing citations and assisting with compliance matters. Capital City Liquidators paid \$270.80 for its annual Business License renewal for 2019. Individual business sales tax data is not available so it is unknown how much the business contributes to City sales tax revenues.

Alternatives

If full compliance was not accomplished by the business owner based on circumstances beyond her control, allow more time for the property to be brought into compliance and bring it back to the Board of Supervisors for a determination.

Attachments:

1.Capital City Liquidators Agreement.pdf

2.Courtesy Letter.pdf

3.Aerial photos 2010-2017.pdf

4.Reqest for Time Extension Letter.pdf

5.Photos from Ann Sullivan 2-22-19.pdf

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

AGREEMENT BETWEEN, ANN SULLIVAN, OWNER OF CAPITAL CITY LIQUIDATORS, AND CARSON CITY, FOR THE PURPOSES OF RESOLVING THE ISSUE OF REPEATED VIOLATIONS OF THE OUTSIDE STORAGE REQUIREMENTS AND THE POTENTIAL BUSINESS LICENSE REVOCATION.

Ann Sullivan, owner of Capital City Liquidators, a corporation organized under the laws of the State of Nevada, pursuant to authority granted by its Board of Directors, by and through its counsel, John S. Bartlett, and Carson City, by and through its counsel Iris Yowell, Deputy District Attorney, and Lee Plemel, Community Development Director (referred to collectively as "the City") enter this agreement to resolve the issues surrounding the business and potential business license revocation of Capital City Liquidators ("the Agreement").

Stipulated Facts and Terms of Agreement

1. Ann Sullivan is the owner and director of Capital City Liquidators located at 3390 S Carson St, Carson City, NV 89701. Ms. Sullivan warrants and agrees that she is responsible for the acts of the Corporation, and as such is authorized to enter into this Agreement.
2. Ms. Sullivan admits that there is outside storage at Capital City Liquidators exceeding more than 20% of the lot area, and that she has been out of compliance with the Carson City Municipal Code for several years. This admission is based on the documentation provided to the Carson City Board of Supervisors for the show cause hearing that was posted to the December 6, 2018 agenda, and attached to this Agreement as Exhibit 1.
3. On December 6, 2018, at 3:00 p.m. Ms. Sullivan and her counsel, John Bartlett appeared at a hearing to show cause why Ms. Sullivan's business license should not be suspended, canceled, or revoked by the Carson City Board of Supervisors for failure to comply with the Carson City Municipal Code. Lee Plemel, Carson City Community Development Director and Deputy District Attorney Iris Yowell appeared on behalf of Carson City.
4. Instead of asking for revocation as initially planned, Ms. Yowell asked the Board of Supervisors to decline to make a finding suspending, canceling, or revoking the business license, based on the following terms and conditions:

Office of the District Attorney
Carson City, Nevada
885 East Musser St., Suite 2030, Carson City, Nevada 89701
Tel: (775) 887-2072 Fax: (775) 887-2129

- 1 A. Ms. Sullivan agrees to bring Capital City Liquidators into full compliance by
- 2 March 6, 2019.
- 3 B. During the 90 day grace period, Carson City agrees to refrain from bringing code
- 4 enforcement actions against Ms. Sullivan for being out of compliance with the
- 5 outside storage requirements at Capital City Liquidators.
- 6 C. Full compliance at Capital City Liquidators means:
 - 7 i. Storage areas shall be enclosed by a 100% sight-obscuring fence or
 - 8 wall permanently installed and maintained at a minimum height of
 - 9 six feet. No materials and/or equipment shall be stored therein to a
 - 10 height exceeding that of the wall or fence.
 - 11 ii. Storage areas allowed as an accessory use in a commercial or
 - 12 limited industrial zoning district shall not occupy more than 20% of
 - 13 the lot area.
 - 14 iii. Storage areas shall not be located within any required yard setback
 - 15 or parking areas nor shall they be located in any way which
 - 16 interferes with normal traffic flow onto, within or from the lot, or
 - 17 which impedes sight distance at intersections or which otherwise
 - 18 impedes driver visibility.
- 19 D. On March 7, 2019, the parties will come before the Board and ask the
- 20 Board to make a determination whether Ms. Sullivan is in full compliance
- 21 as defined above in section 4C (i-iii). The finding will be at the sole and
- 22 absolute discretion of a majority vote of the Board.
- 23 E. If Ms. Sullivan is not in full compliance, she will surrender her business
- 24 license on that day. Should she fail to surrender her business license on
- 25 that day, the business license will automatically revoke at midnight on
- 26 March 7, 2019.
- 27 F. If Ms. Sullivan is in full compliance, she may continue the operation of her
- 28 business. Ms. Sullivan must keep Capital City Liquidators in full compliance for

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a period of 180 days from the March 7, 2019 date.

G. If Ms. Sullivan falls out of compliance during the 180 day time period, Carson City code enforcement will place an item on the Board of Supervisors agenda to request that the Board make a finding that Ms. Sullivan is not in full compliance as defined in paragraph 4C (i-iii) of this Agreement. The finding will be at the sole and absolute discretion of a majority vote of the Board.

H. If the Board makes a finding that Ms. Sullivan is not in full compliance, she will surrender her business license on the date of the hearing. If she fails to surrender her business license, then the business license will automatically revoke at midnight on the same date.

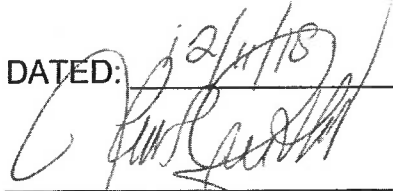
I. This Agreement and Exhibit 1 specifically recited herein constitute the entire Agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and agreements that may have been made in connection with this Agreement. Any conflicts in language between what was orally stated on the record at the December 6, 2018 show cause hearing are superseded by this written Agreement and this written Agreement controls.


5. By her signature, Ms. Sullivan agrees to waive the following rights:

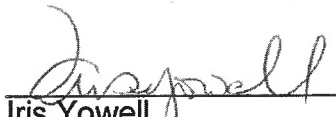
- A. All appeal rights in this case (by way of judicial review or otherwise) related to any revocation that occurs pursuant to the terms and conditions of this Agreement.
- B. The right to sue Carson City on any matters related to the revocation of her business license pursuant to the terms and conditions of this Agreement.


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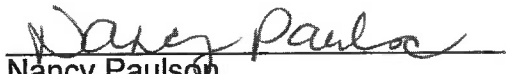
6. Ms. Sullivan agrees that she is signing this Agreement voluntarily, after consultation with her attorney, and is not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this Agreement.

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4
5 DATED: 12/14/18
6 
7 John Bartlette
8 Attorney for Ann Sullivan

DATED: 12/14/18

Ann Sullivan
Owner of Capital City Liquidators

9
10 DATED: 12/20/18
11 
12 Iris Yowell
13 Deputy District Attorney
14 Attorney for Carson City

DATED: 12/20/18

Lee Plemel
Community Development Director

15 DATED: 12/20/18
16 
17 Nancy Paulson
18 Interim City Manager

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Community Development Department

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711

February 12, 2019

Ms. Anne Sullivan
Capital City Liquidators, Inc.
PO Box 805
Carson City, NV 89702

Re: Outside Storage at 3390 S. Carson Street

Dear Ms. Sullivan:


This is a courtesy letter to remind you of the scheduled review of your outside storage areas by the Board of Supervisors on March 7, 2019, per the Board's action on December 6, 2018, and the agreement signed by you on December 11, 2018. The Code Enforcement Division is scheduled to be on your business property the morning of March 7 to conduct an inspection in order to report to the Board of Supervisors. We will provide you with the agenda for the meeting by March 1, after the agenda is published.

I would also like to clarify the expected compliance standards to ensure that you understand them so you can bring the outside storage areas into compliance. At the December 6 Board of Supervisors meeting, your attorney noted that the property is "almost in compliance now" with the work that had been done up to that point. It is encouraging that you are close to compliance, but the Carson City Municipal Code requires more than just putting the materials behind the existing fence.

As stated in all prior complaints and agreements, the fenced "storage areas" may not occupy more than 20% of the property. This means that the fenced, screened storage areas must be reduced in area on the property to a maximum of 20%. It is estimated that your current fenced storage areas occupy approximately 40% of the property area. During a site visit, I provided you with some examples of where the fenced storage areas may be while staying within the 20% limit. We do not have a preference on how you achieve this, only that it is reduced to 20% of the parcel area. To be compliant, only 20% of the property may be fenced and screened for storage. The fencing on the remainder of the property must be removed without any storage within it.

I hope this clarifies the expectations for compliance prior to the Board of Supervisors meeting on March 7. If you have questions regarding the outside storage requirements in general or how they may apply to your business property, you can contact me or have your attorney contact me at 283-7075 or lplemel@carson.org.

Regards



Lee Plemel, Director

Copy: John S. Bartlett, Esq., 755 N. Roop St., Ste. 108, Carson City NV 89701
Code Enforcement Division

3390 S. Carson St -- Auto Sales Storage Area -- 2010 Aerial Photo



Property Information

Property ID 00911128
 Location 3390 S CARSON ST
 Owner COURTRIGHT, E & L TR, ET AL



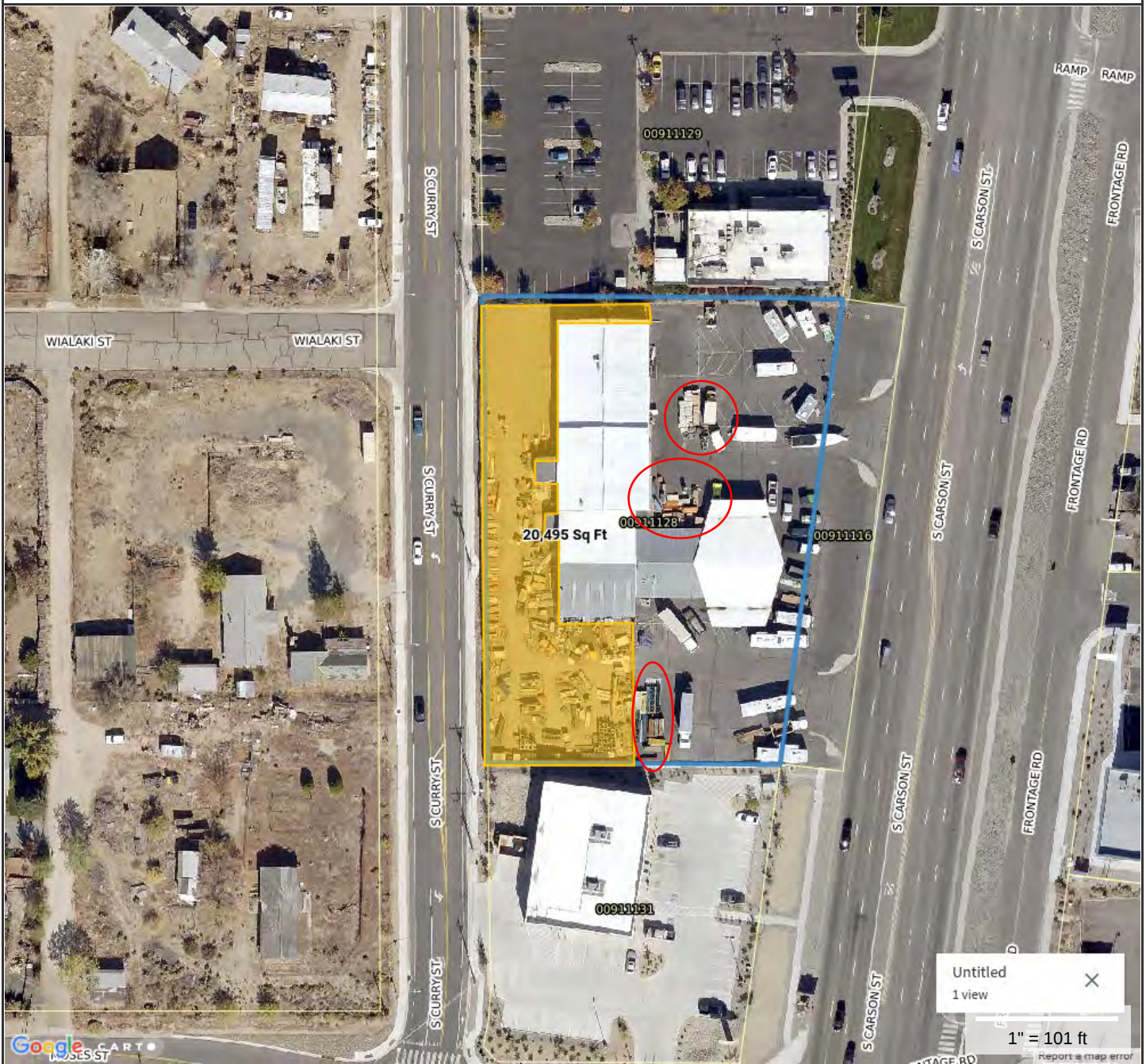
**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Carson City , NV makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 05/26/2018
 Properties updated 05/26/2018

- Parcel size: 1.53 acres.
 - Enclosed storage area: 0.46 acres, 30% of parcel area (approximate).

3390 S. Carson St -- Enclosed Outside Storage Area -- 2013 Aerial Photo



Property Information

Property ID 00911128
 Location 3390 S CARSON ST
 Owner COURTRIGHT, E & L TR, ET AL



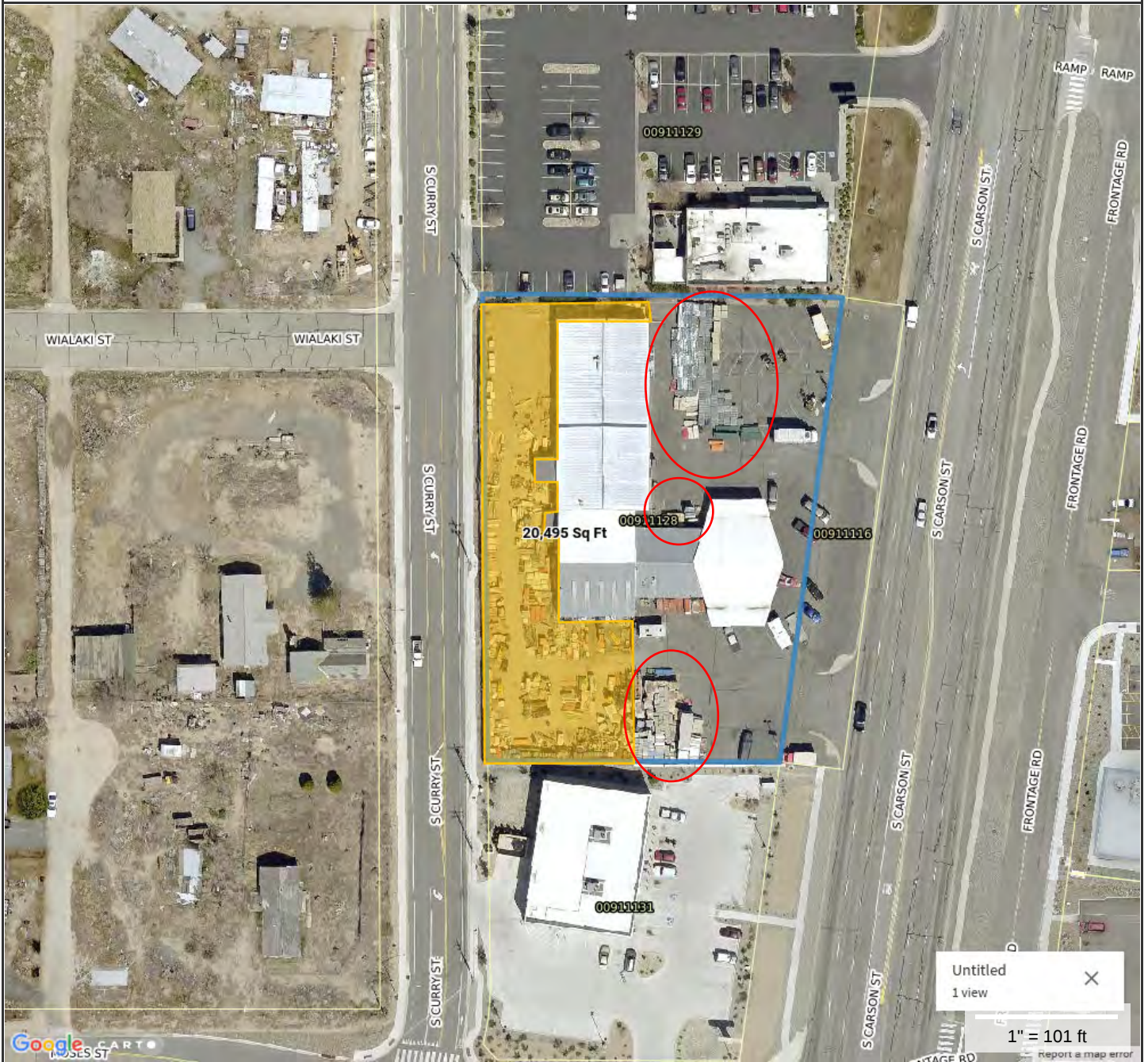
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Parcels updated 05/26/2018
 Properties updated 05/26/2018

- Parcel size: 1.53 acres.
- Enclosed storage area: 0.46 acres, 30% of parcel area (approximate).
- Illegal outside storage noted outside the fenced area.

3390 S. Carson St -- 2015 Aerial Photo



Property Information

Property ID 00911128
 Location 3390 S CARSON ST
 Owner COURTRIGHT, E & L TR, ET AL



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Parcels updated 05/26/2018
 Properties updated 05/26/2018

- Parcel size: 1.53 acres.
- Enclosed storage area: 0.46 acres, 30% of parcel area (approximate).
- Illegal outside storage noted outside the fenced area.

Expanded Outside Storage Area Totals 41 Percent of Parcel Area -- 2017 Aerial Photo



Property Information

Property ID 00911128
 Location 3390 S CARSON ST
 Owner COURTRIGHT, E & L TR, ET AL



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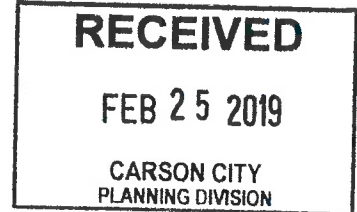
- Parcel size: 1.53 acres.
- Enclosed storage area: 0.46 acres, 41% of parcel area (approximate).
- Illegal outside storage noted outside the fenced area.

Law Office of John S. Bartlett

775 N. Roop St., Ste. 108
Carson City, NV 89701
(775) 841-6444
(775) 841-2172
johnsbartlett@att.net

February 25, 2019

Lee Plemel
Carson City Community Development
108 E. Proctor St.
Carson City, NV 89701



RE: Capital City Liquidators, Inc.

Dear Lee:

As you know, my client Capital City Liquidators, Inc., has been directed to bring the outside storage of inventory at its place of business at 3390 S. Carson St., Carson City, into compliance with local ordinances before March 7, 2019. Basically, this means reducing the area of the fenced screened outside storage to no more than twenty percent of the total square footage of the parcel at this location.

Substantial progress has been made on this project. However, due to the inclement weather we have had since the middle of January, and especially so far in February, my client has been unable to use its forklift to move and consolidate inventory for several weeks because of snow and mud. My client has discussed this issue with you, and you suggested making a formal request to the Board of Supervisors for an extension of time due to these extenuating circumstances.

Therefore, on behalf of my client, I am submitting a request for an additional 30 days, to April 5, 2019, to complete the project to reduce and consolidate the outside fenced screened storage to no more than 20 percent of the total square footage of the parcel at 3390 S. Carson St. Assuming the weather will improve as we continue into March, my client wishes to assure you that with this additional time the project to reduce and consolidate outside inventory storage that complies with local ordinances will be completed.

Please pass this letter on to the Board of Supervisors for their consideration on March 7. If you need any additional information, please let me know.

Sincerely,

John S. Bartlett

cc: Ann Sullivan

