

STAFF REPORT FOR PLANNING COMMISSION MEETING OF AUGUST 25, 2021

FILE: MPA-2021-0257 & ZA-2021-0256

AGENDA ITEM: 13.A and 13.B

STAFF CONTACT: Heather Ferris, Planning Manager

AGENDA TITLE: For Possible Action: Discussion and possible action regarding a proposed resolution recommending to the Carson City Board of Supervisors approval of a proposed Master Plan Amendment to change the Master Plan designation from Industrial to Low Density Residential for a 1-acre parcel located at 1449 S. Sutro Terrace, APN 008-683-01. (Heather Ferris, h ferris@carson.org)

Summary: The proposed Master Plan amendment would designate the property Low Density Residential consistent with the existing on-site single-family residential use and properties located to the west. The Board of Supervisors is authorized to amend the Master Plan. The Planning Commission makes a recommendation to the Board by resolution.

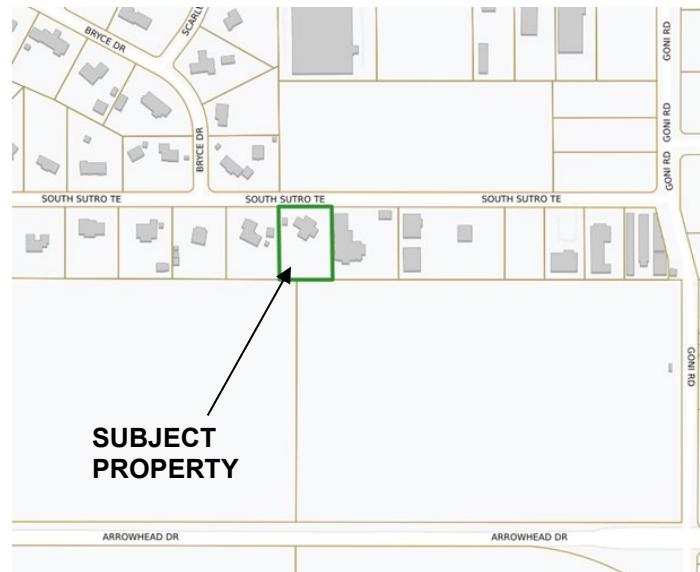
ZA-2021-0256 For Possible Action: Discussion and possible action regarding a recommendation to the Carson City Board of Supervisors concerning a proposed ordinance amending the Zoning Map to change the zoning from Limited Industrial (LI) to Single Family 1 acre (SF1A), for a 1-acre parcel located at 1449 S. Sutro Terrace APN 008-683-01. (Heather Ferris, h ferris@carson.org)

Summary: The proposed zoning map amendment would rezone the property to be consistent with the existing on-site single family residential use. Additionally, the proposed SF1A zoning is consistent with the current zoning and use of properties to the west. The Board of Supervisors is authorized to amend the zoning map. The Planning Commission makes a recommendation to the Board.

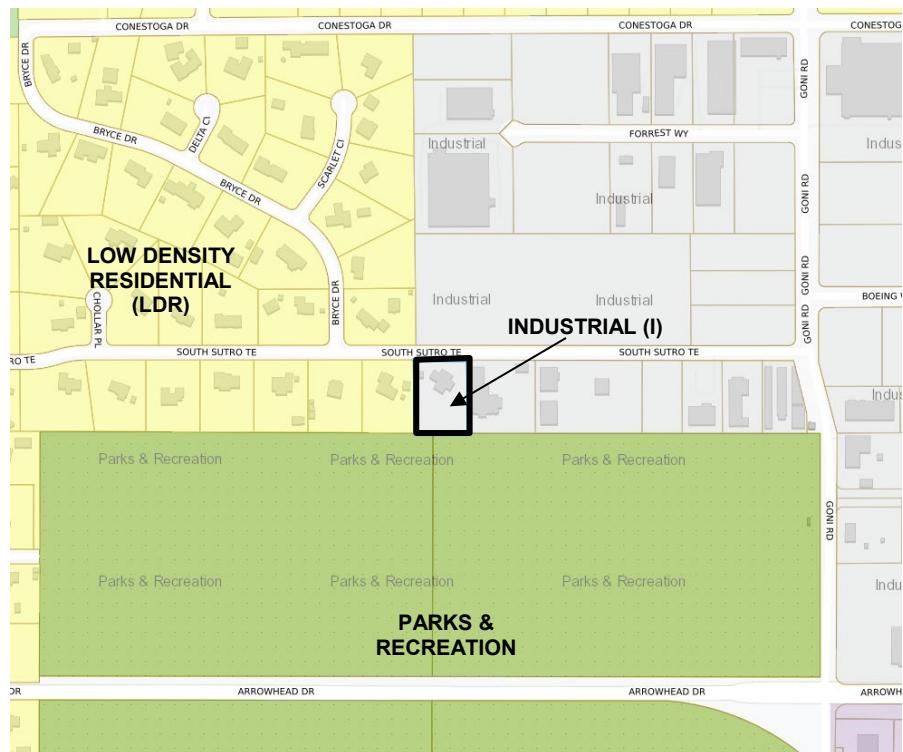
MASTER PLAN AMENDMENT RECOMMENDED MOTION: "I move to adopt resolution number 2021-PC-R-2."

ZONING MAP AMENDMENT RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors approval of the zoning map amendment ZA-2021-0256 as presented."

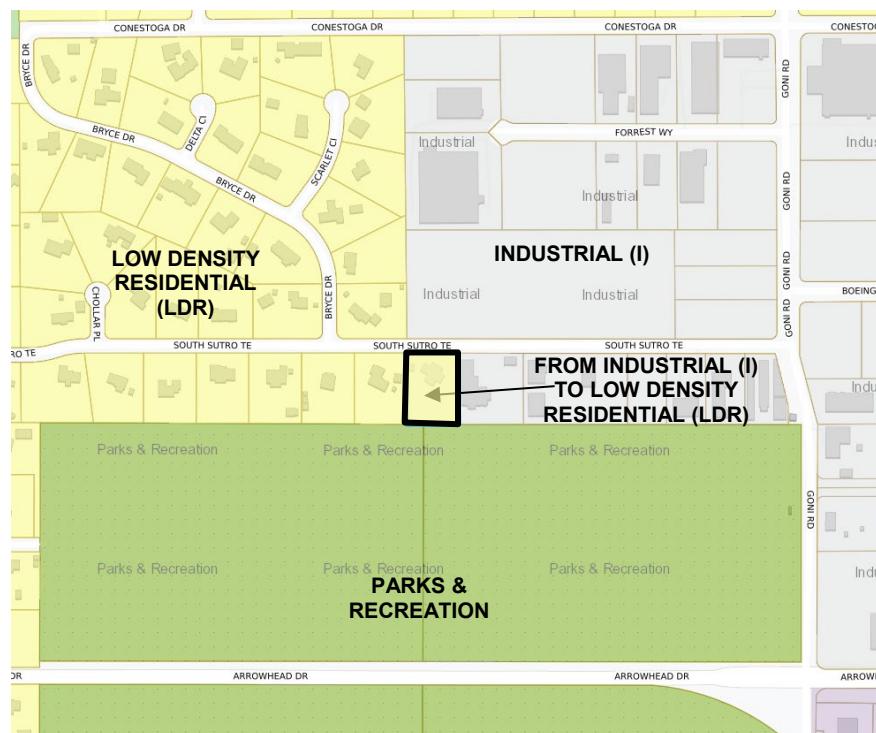
VICINITY MAP:



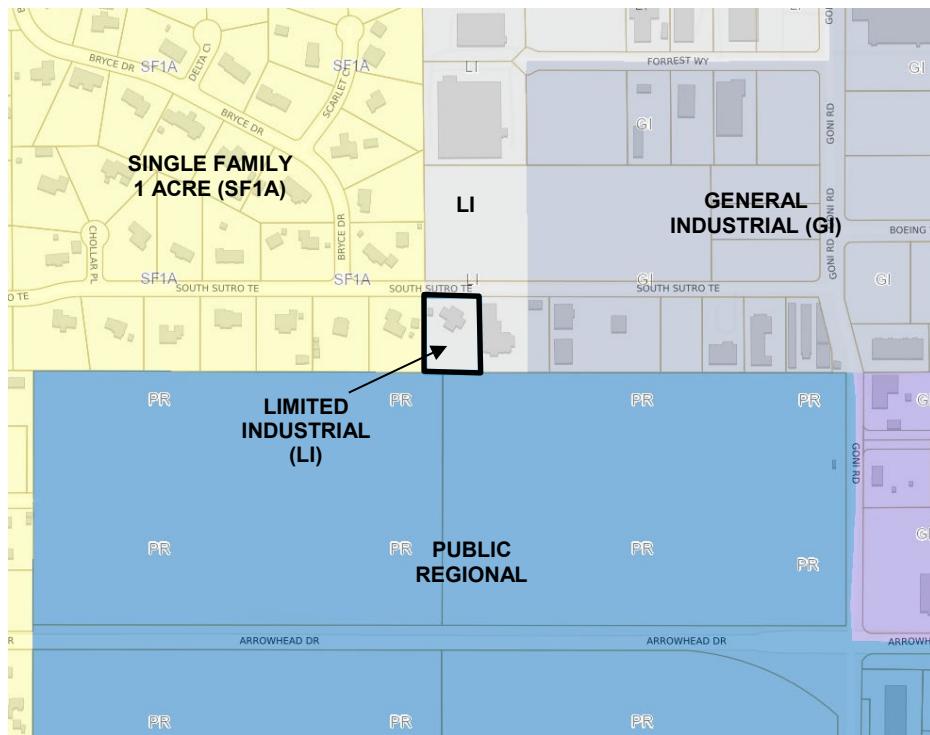
EXISTING MASTER PLAN



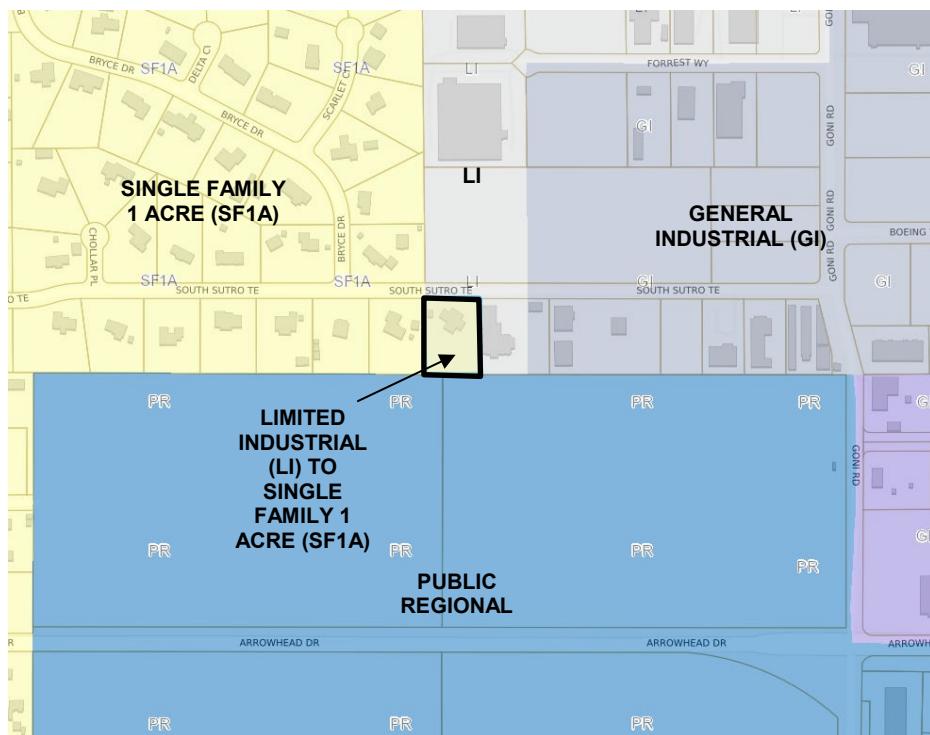
PROPOSED MASTER PLAN



EXISTING ZONING



PROPOSED ZONING



LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.070 (Master Plan) 18.02.075 (Zoning Map Amendments and Zoning Code Amendments)

EXISTING MASTER PLAN DESIGNATION: Industrial

PROPOSED MASTER PLAN DESIGNATION: Low Density Residential

EXISTING ZONING: Limited Industrial (LI)

PROPOSED ZONING: Single Family 1 acre (SF1A)

SURROUNDING ZONING AND LAND USE INFORMATION:

NORTH: Limited Industrial & General Industrial/ landscape rock & material yard

SOUTH: Public Regional/ vacant & cinders pit

EAST: Limited Industrial/ warehouse & storage

WEST: Single Family 1 acre/ single family residence

BACKGROUND AND DISCUSSION:

The subject property is 1 acre in size and is located on the south side of South Sutro Terrace approximately ¼ mile west of Goni Road. The site is developed with a single-family residence.

In 1975 the subject parcel was rezoned from Industrial to Residential One Acre. In 1976 the city initiated a comprehensive rezoning for all property within Carson City with the new zoning being adopted by the Board of Supervisors in 1978. As a result of this rezoning, the subject property was zoned General Industrial. In January of 1979 the then property owners began construction of their residence at the subject property and subsequent to that, the Board of Supervisors changed the zoning of the parcel from General Industrial to Limited Industrial.

The Master Plan designation of the subject parcel is Industrial. While the property is zoned Limited Industrial, it has only ever been developed with a single-family residence. The current owner of the property is in the process of selling the property and wishes to amend the master plan and zoning to reflect the actual use of the property.

The proposed Master Plan designation of Low Density Residential and the proposed zoning of Single Family 1 acre are consistent with the existing use of the property as well as properties to the west and northwest of the subject property.

The Board of Supervisors may amend the Master Plan and Zoning Maps. The Planning Commission makes a recommendation to the Board.

PUBLIC COMMENTS: On August 13, 2021, public hearing notices were mailed to 32 property owners within 850 feet of the subject property in accordance with the provisions of NRS and CCMC 18.02.045. At the time of the writing of this report staff has not received any public comment. Any comments that are received after this report is completed will be provided to the Planning Commission either prior to or at August 25, 2021 meeting depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS:

The requests were routed to other departments for review and comment. All indicated they had no comments or concerns with the proposed amendments.

FINDINGS: Staff recommends the following findings for approval of the Master Plan Amendment and Zoning Map Amendment pursuant to the Carson City Municipal Code 18.02.070 and 18.02.075, Zoning Map Amendments and Zoning Code Amendments.

MASTER PLAN AMENDMENT FINDINGS: Per the provisions of CCMC 18.02.070

- 1. The proposed amendment is in substantial compliance with the goals, policies and action programs of the Master Plan.**

The proposed amendment is in substantial compliance with the following policy of the Master Plan:

2.2a Variety of Housing Types

Encourage a mix of housing models and densities for projects within the urbanized areas based upon their size, location, surrounding urbanized area based upon their size, location, surrounding neighborhood context, and applicable land use policies

The subject parcel currently exists and improved with a single-family residence. The parcel size corresponds to the Low-Density Residential designation. In terms of the surrounding neighborhood context, the subject property has Low Density Residential designations to the west and northwest with Industrial designations to the north and east, and Parks and Recreation to the south.

- 2. The proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**

The proposed amendment will provide for land uses compatible with the existing on-site use and land uses to the west and northwest. The subject parcel is currently developed with a single-family residence and is 1 acre in size, consistent with the Low-Density Residential land use designation. Additionally, the properties to the west and north west are designated Low Density Residential and developed with single family residences. The proposed designation will cause the existing development to be consistent with the Master Plan.

- 3. The proposed amendment is in response to changed conditions that have occurred since the plan was adopted and the requested amendment represents a more desirable use of land.**

The proposed amendment is to correct an existing inconsistency between actual on-site residential development and the existing Master Plan designation of Industrial. The proposed Low Density Residential designation will cause the existing development to be consistent with the Master Plan.

4. **The requested amendment will promote the desired pattern of orderly physical growth and guides development based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.**

The subject property is already developed. The proposed designation will simply create consistency between the existing residential development and the Master Plan.

ZONING MAP AMENDMENT FINDINGS:

1. **That the proposed amendment is in substantial compliance with and supports the goals and policies of the master plan.**

Chapter 3 of the Master Plan identifies the land use designations and identifies what zoning districts corresponds to the land use designation. If the Master Plan is amended to designate the property as Low Density Residential, the proposed Single Family 1 acre zoning district would be a corresponding zoning district that will implement the Master Plan.

2. **That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**

The proposed amendment will provide for land uses compatible with the existing on-site single family residential land use. The proposed zoning map amendment will not have a detrimental impact on other properties in the vicinity as the property is already developed consistent with the proposed master plan and zoning. The proposed zoning map amendment will cause the existing development to be in compliance with the zoning designation. The proposed zoning designation is also consistent with the zoning designation of parcels to the west and northwest of the subject parcel.

3. **That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.**

The proposed zoning map amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare. The site is currently developed with a single-family residence which is consistent with the proposed Single Family 1 acre zoning, and is currently served by public services and facilities.

Attachments:

- Planning Commission Master Plan Amendment Resolution 2021-PC-R-3
- Draft Zoning Map Amendment Ordinance
- MPA-2021-0257 application
- ZA-2021-0256 application

RESOLUTION 2021-PC-R-2

A RESOLUTION RECOMMENDING TO THE BOARD OF SUPERVISORS APPROVAL OF MPA-2021-0257, A MASTER PLAN AMENDMENT TO CHANGE THE LAND USE MAP DESIGNATION FROM INDUSTRIAL TO LOW DENSITY RESIDENTIAL FOR A PARCEL LOCATED AT 1449 S. SUTRO TERRACE, APN'S 008-683-01.

WHEREAS, NRS 278.210 requires that any adoption of a Master Plan Amendment shall be by resolution of the Planning Commission; and

WHEREAS, the Planning Commission has given proper notice of the proposed amendment in accordance with the provisions of NRS 278.210 and CCMC 18.02.070, and is in conformance with City and State legal requirements; and

WHEREAS, on August 25, 2021, the Planning Commission obtained public testimony and duly considered recommendations and findings for the proposed master plan amendment and recommended approval of Master Plan Amendment MPA-2021-0257 by an affirmative vote of a two-thirds majority of the Commission, at least five members of the seven-member Commission, pursuant to NRS 278.210, based on four findings of fact; and

WHEREAS, the proposed Master Plan land use designations would be consistent with the existing and intended uses of the property;

NOW, THEREFORE, the Carson City Planning Commission hereby recommends to the Board of Supervisors approval of the Master Plan Amendment to change the Land Use Map designation from Industrial to Low Density Residential for a property located at 1449 S. Sutro Terrace, APN 008-683-01.

ADOPTED this 25th of August 2021

VOTE: AYES:

NAYS:

ABSENT:

Charles Borders, Chairman

ATTEST:

Hope Sullivan, AICP, Community Development Director

SUMMARY – Amends the Carson City zoning map.

BILL NO. _____
ORDINANCE NO. 2021-_____

AN ORDINANCE RELATING TO ZONING; ESTABLISHING VARIOUS PROVISIONS TO CHANGE THE ZONING FROM LIMITED INDUSTRIAL TO SINGLE FAMILY 1 ACRE ON PROPERTY LOCATED AT 1449 S. SUTRO TERRACE, ASSESSOR'S PARCEL NUMBER 008-683-01.

The Board of Supervisors of Carson City do ordain:

SECTION I:

An application for a zoning map amendment affecting Assessor's Parcel Number 008-683-01, property located at 1449 S. Sutro Terrace, Carson City, Nevada, was duly submitted to the Planning Division of the Carson City Community Development Department in accordance with section 18.02.075 of the Carson City Municipal Code ("CCMC") to revise the existing zoning designation of Assessor's Parcel Number 008-683-01 from Limited Industrial to Single Family 1-acre. After proper noticing in accordance with chapter 278 of the Nevada Revised Statutes and CCMC Title 18, on August 25, 2021, the Planning Commission, during a public hearing, reviewed the staff report of the Planning Division, received public comment and voted ____ ayes and ____ nay to recommend to the Board of Supervisors approval of the application for the zoning map amendment.

SECTION II:

The zoning map of Carson City is hereby amended to change the zoning of Assessor's Parcel Number 008-683-01, approximately 1.0 acre in size, from Limited Industrial to Single Family 1 Acre, as depicted in Attachment A, based on the findings that the zoning map amendment:

1. Is in substantial compliance with the goals, policies and action programs of the Carson City master plan.
2. Will provide for land uses that are compatible with existing adjacent land uses.
3. Will not have a detrimental impact on other properties within the vicinity.
4. Will not negatively impact existing or planned public services or facilities.
5. Will not adversely impact the health, safety or welfare of the public.
6. Satisfies all other required findings of fact as set forth in CCMC 18.02.075(5).

PROPOSED this _____ day of _____ 2021.

PROPOSED BY Supervisor _____

PASSED on the _____ day of _____ 2021.

VOTE: AYES: _____

NAYS: _____

ABSENT: _____

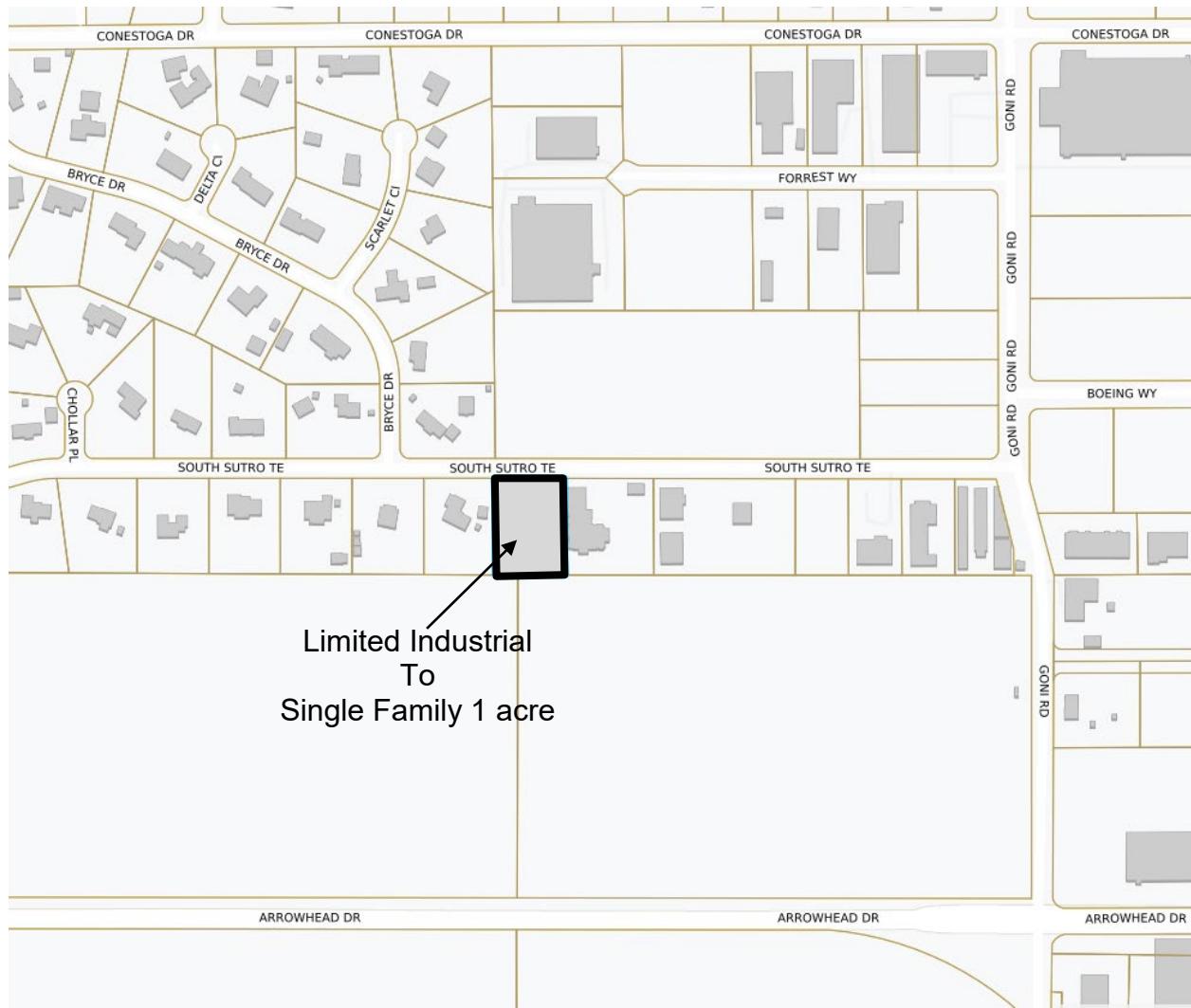
Lori Bagwell, Mayor

ATTEST:

Aubrey Rowlatt, Clerk-Recorder

This ordinance shall be in force and effect from and after the _____ of _____, 2021.

Attachment A



Carson City Planning Division
108 E. Proctor Street • Carson City NV 89701
Phone: (775) 887-2180 • E-mail: planning@carson.org

FILE

APPLICANT	PHONE #
Sharon V. Wentzlaff / Wentzlaff Living Trust	775-841-6768
MAILING ADDRESS, CITY, STATE, ZIP	
1449 South Sutro TE, Carson City, NV, 89706	
EMAIL ADDRESS	
hsw8111@yahoo.com	
PROPERTY OWNER	PHONE #
Wentzlaff Living Trust	775-841-6768
MAILING ADDRESS, CITY, STATE, ZIP	
1449 South Sutro TE, Carson City, NV, 89706	
EMAIL ADDRESS	
hsw8111@yahoo.com	
APPLICANT AGENT/REPRESENTATIVE	PHONE #
Todd Wentzlaff	832-797-1094
MAILING ADDRESS, CITY, STATE, ZIP	
40602 Manor Dr, Magnolia, TX, 79354	
EMAIL ADDRESS	
thwentzlaff@gmail.com	

FOR OFFICE USE ONLY:

ZONING MAP AMENDMENT

FEE: \$2,450.00 + noticing fee

SUBMITTAL PACKET

- Application Form
- Written Project Description
- Site Plan
- Proposal Questionnaire With Both Questions and Answers Given, Supporting Documentation
- Applicant's Acknowledgment Statement
- 5 Completed Application Packets (1 Original + 4 Copies)
- Documentation of Taxes Paid-to-Date (1 copy)
- Project Impact Reports (Engineering-4 copies)
- CD containing application data (all to be submitted once application is deemed complete by staff)

Application Reviewed and Received By:

Submittal Deadline: Planning Commission application submittal schedule.

Note: Submittals must be of sufficient clarity and detail such that all departments are able to determine if they can support the request. Additional information may be required.

Project's Assessor Parcel Number(s)	Street Address	ZIP Code
00868301	1449 South Sutro TE, Carson City, NV, 89706	
Project's Master Plan Designation	Project's Current Zoning	Nearest Major Cross Street(s)
Industrial	Limited Industrial - LI	South Sutro TE / Goni Rd

Briefly describe the components of the proposed project: in accordance with Carson City Municipal Code (CCMC), Section 18.02.075. In addition to the brief description of your project and proposed use, provide additional page(s) to show a more detailed summary of your project and proposal.

Amend Master Plan and Zoning Map for APN 00868301 to Single Family One Acre - SF1A from Limited Industrial - LI.

Proposed maximizes value of property to Carson City, the owner / seller, and the buyer. Proposed reflects the actual

Land Use of Single Family Residence since the existing single-family residence was built in 1979.

PROPERTY OWNER'S AFFIDAVIT

I, Sharon V. Wentzlaff / Wentzlaff Living Trust, being duly deposed, do hereby affirm that I am the record owner of the subject property, and that I have knowledge of, and I agree to, the filing of this application.

Sharon V. Wentzlaff
Signature

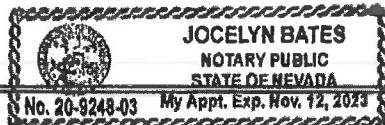
1449 S. Sutro TE, Carson City, NV 89706
Address

June 14, 2021
Date

Use additional page(s) if necessary for other names.

On June 14, 2021, Sharon V. Wentzlaff, personally appeared before me, a notary public, personally known (or proved) to me to be the person whose name is subscribed to the foregoing document and who acknowledged to me that he/she executed the foregoing document.

Leah B. Bandy
Notary Public



SITE PLAN CHECKLIST

The site plan shall be drawn on quality paper (minimum size of 8.5 inches by 11 inches) at an appropriate scale or dimension to depict the parcel. Any site plan larger than 8.5 inches by 11 inches must be folded. The site plan shall include the following information:

1. Show a north point arrow and plot plan scale. A bar scale is preferred because when the drawings are reduced, it will still show an accurate scale. A bar scale could appear like this for a project that has a scale of one inch equals twenty feet on the original plot plan:



2. Vicinity map must be shown on map must be shown on the plot plan. This is a map, not to scale, that you would provide a visitor unfamiliar with the area as directions to get to your property. It will show adjacent streets.

3. Title block in lower right-hand corner including:

- a. Applicant's name, mailing address, and daytime phone number (including area code).
- b. The name, mailing address, and daytime phone number of the person preparing the plot plan, if different from applicant.
- c. The name, mailing address, and daytime phone number of the record owner of the subject property, if different from applicant.
- d. Assessor Parcel Number(s) and address (or location if no address) of the subject property.
- e. Project title and permit request. (Example: variance, special use permit)

4. Property lines of the subject property with dimensions indicated.

5. All existing structures shall be shown, including:

- a. Distances from property lines indicated by dimensions.
- b. Distances between buildings shall be indicated on the plot plan.
- c. Clearly label existing structures and show dimensions.
- d. Square footage of all existing structures.
- e. If a commercial or multi-family project, show all elevations and submit roof plans showing all proposed roof equipment and means of screening from view along with plans for trash receptacle screening.

6. Project access:

- a. Show the location of street access.
- b. Show adjoining street names.
- c. Show all curb cuts with dimension.

7. Show the Assessor Parcel Number(s) of the adjoining parcels.

8. Show all existing parking and traffic aisles with dimensions.

9. Show location of existing utilities and indicate whether overhead or underground.

10. PROJECT IMPACT REPORTS - Provide **four** copies of documentation regarding project impacts related to traffic, drainage, water, and sewer, including supportive calculations and/or reports per the Carson City Development Standards Divisions 12, 14 and 15.

APPLICATION FOR A ZONING MAP AMENDMENT

WHAT IS ZONING?

Carson City is divided into land use categories called "zoning districts", or more commonly just "zones". These categories include rural areas, residential areas in various densities, commercial areas, industrial areas, and lands set aside for public uses.

Each zone is intended to establish the standards that are used to determine where buildings are placed on a lot, the types of development standards (parking, landscaping, and similar items), and what types of uses are allowed in the district. Each zone has a stated "purpose" that provides a broad guideline as to the intent of the zone. The specific requirements are listed in the Nevada Revised Statutes (NRS) and the Carson City Municipal Code (CCMC). Copies are available at the Planning Division or the Carson City Library.

In order to obtain a zoning district change for a parcel, the land owner must first look at the Carson City Master Plan. The Master Plan is the blueprint for long-term land development and uses in Carson City.

The Master Plan land use map shows where in the City various zones are permitted and which category (residential, commercial, etc.) is allowed. The Master Plan allocates both general land uses and a range of densities.

The review of the Master Plan is very important when a property owner is considering a change in the land use zone for a parcel. It is not possible to request a commercial zoning district when the Master Plan shows the property in a residential classification. In this situation, in order to make a change from Residential to Commercial, a Master Plan Amendment is also required.

The "zoning ordinance" is actually a series of ordinances adopted and enacted by the Board of Supervisors over the years. The composite of all the various zoning ordinances are contained in Title 18 of the CCMC. This is called the "Zoning Code" or "the zoning ordinance." Whenever someone refers to zoning, the person is referring to Title 18 of the Municipal Code.

HOW DOES ONE CHANGE A ZONE?

In order to change a zone, an application for a Zoning Map Amendment must be filed with the Planning Division. A Zoning Map Amendment requires a recommendation from the Planning Commission and then the preparation of an ordinance for enactment by the Board of Supervisors. Because an ordinance is required, the Board must hold both a first and second reading of the ordinance prior to giving final approval to the Zoning Map Amendment. In addition, the Commission and the Board must be able to substantiate certain findings prior to approval (see next page).

The application is first submitted to the Planning Division for review. It is distributed to various City departments and other agencies for their comments. Then a staff report is prepared, making a recommendation to the Commission. The Commission holds a public hearing for which notices are mailed to your neighboring property owners seeking their comments or inquiries.

The Commission, at its hearing, may approve, approve a modified version of your request, or deny the Zoning Map Amendment. The Commission's decision is a recommendation forwarded to the Board of Supervisors.

Next, staff prepares the text of the ordinance for a "first reading" by the Board of Supervisors. At the first reading, the Board considers the recommendation from the Commission, the Planning Division's staff report, and any public comments.

The Board then takes action on the first reading. The Board may approve the ordinance as recommended by the Commission, it may modify the Commission's recommendation, or it may deny the Zoning Map Amendment.

If the Board approves the first reading, the ordinance is then scheduled for a second reading. At the second reading, the Board takes final action to enact a change in the City's Municipal Code to approve the Zoning Map Amendment. When the Board takes its final action, the zone change is effective the following Monday after the date of Board approval.

WHAT IF I DON'T WANT TO CHANGE MY ZONE, BUT A USE IN THE ZONE?

The zoning ordinance dictates the specific land uses permitted within a zoning district. You may be in a situation where you have the general category of zoning you require for your desired use (for example, commercial zoning), but the use that you want to establish is not permitted in the specific zone.

In this case, it is possible to apply to change the zoning ordinance itself. The application is similar to a Zoning Map Amendment, but there is more detailed data required from you. In addition, because of a change in the zoning code has a much greater effect on the City as a whole, there may be a greater reluctance on the part of the Planning Commission or Board of Supervisors to approve ordinance changes of this type.

WHAT ARE THE "FINDINGS" THAT MUST BE SUPPORTED?

The Carson City Municipal Code (CCMC 18.02.075) sets out the required findings. These can be paraphrased as:

- a. The Zoning Map Amendment must support the goals and policies of the Carson City Master Plan for the neighborhood of the subject project.
- b. The Zoning Map Amendment and subsequent development of the property will not be or have detrimental impacts on other property in the neighborhood.
- c. The Zoning Map Amendment will have a general benefit to the people of the City as a whole.
- d. The applicant shall have the burden of proof of going forward with the evidence and the burden of persuasion on all questions of fact, and must provide adequate information in the application and on the site plan to substantiate required "Findings".

In order for you to meet the requirement that "proof of satisfying the findings come from the applicant," you are going to need to do some background work to provide the facts and evidence.

Here are the ways you can get the facts:

1. Review the goals listed in the Master Plan and identify those policies that support your proposal. The Master Plan Policy Checklist is attached to this application. You may want to acquire a free CD or purchase a paper copy of the Master Plan from the Planning Division, or review the copy in the Planning Office or in the reference section of the Carson City Public Library on Roop Street, or use our website at www.carson.org

In addition to the land use element, you may find other objectives or recommendations in the Master Plan's other elements. You may review the Parks and Recreation Master Plan or Transportation Master Plan among other Master Plan elements to see if there are recommendations supporting your proposal.

2. Show on your plot plan and describe in writing, how you are planning to incorporate design, landscaping, or other features to protect the neighborhood from any potential adverse effects. Look at your proposal objectively. Try to consider what you would feel if you lived next door and someone were to be proposing this Zoning Map Amendment next to your business or home.
3. The more information you assemble before turning your project into the Planning Division helps to ensure that there are few or no "surprises" when other departments and agencies look at your proposal.

Complete information provided with your application and quality drawings or plans you submit make it easier for the Commission and the Board to arrive at their decision.

Remember, it's your job to ensure that the Commission and Board have the information and legible drawings to make the required findings. The Planning Division can offer some help, but we cannot do the work for you. If you have any questions, please give us a call.

PROPOSAL DOCUMENTATION

In the introduction, there are a number of findings of fact listed that must be supported by data in your application. These findings are enumerated in Sections 18.02.075 of the Carson City Municipal Code. State law requires that the Planning Commission and the Board of Supervisors consider and support these issues with facts in the record. You need to complete the attached Proposal Questionnaire with as much detail as possible to ensure that there is adequate evidence supporting your proposal.

The questionnaire lists the findings in the exact language found in the Carson City Municipal Code, then follows this with a series of questions seeking information to support the findings. Answer the questions as completely as possible so that you provide the Commission and Board with the details that they will need to consider your project.

Before a Zoning Map Amendment may be recommended for approval, the applicant shall provide evidence to the Commission and Board concerning the physical use of land and zoning currently existing in the general vicinity, and which have occurred in the previous five-year time period, that the proposal will not be detrimental to the immediate vicinity, and that the proposal supports the goals, objectives, and recommendations of the master plan elements concerning land use and related policies for the neighborhood where the subject project is situated.

The applicant for a Zoning Map Amendment shall have the burden of proof to provide facts supporting the proposed Zoning Map Amendment. For purposes of legal clarity, this shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Commission and the Board. Additionally, the applicant shall provide adequate information in the application and on the site plan to substantiate the findings required in this section. The Commission and Board shall determine if the information presented is adequate to support their decision.

APPLICATION QUESTIONNAIRE

Please type or print in black ink on separate sheets. Attach to your application. List each question, then respond in your own words.

GENERAL REVIEW OF PERMITS

Source: CCMC 18.02.050 (Review) and 18.02.075 (ZMA). The Board of Supervisors and the Planning Commission in reviewing and judging the merit of a proposal for a variance, special use permit, or a zoning map amendment, shall direct its considerations to, and find that in addition to other standards in this title, the following conditions and standards are met:

1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.

A. In reviewing the attached Carson City Master Plan Policy Checklist, determine which Policies are applicable to the proposal. Explain what features of the proposed project support your selection of Goals and Policies concerning land use and related policies for the neighborhood where the subject project is located.

2. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

A. Describe the land uses and zoning adjoining your property (for example: North: two houses, Single-Family One Acre zoning; East: restaurant, Retail Commercial zoning, etc.), and how your zoning will be compatible with those uses and not cause detrimental impacts.

B. Describe land use and zoning changes in the general vicinity which have occurred in the previous five-year period.

3. That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

4. That sufficient consideration has been exercised by the applicant in adapting the project to existing improvements in the area. Be sure to indicate the source of the information that you are providing (private engineer, development engineering, title report, or other sources). Describe how your proposed Zoning Map Amendment will not adversely impact drainage, sewer, water, traffic, schools, emergency services, roadways and other city services.

- A. Is drainage adequate in the area to support the density that may occur with the rezoning? How will drainage be accommodated? How have you arrived at this conclusion?
- B. Are the water supplies in the area of your project adequate to meet your needs without degrading supply and quality to others? Is there adequate water pressure? Are the lines in need of replacement? Talk to the Utilities Department for the required information.
- C. Are roadways sufficient in the area to serve the density that may occur from the rezoning? How have you arrived at this conclusion?
- D. Will the school district be able to serve the student population that may occur from the rezoning? How have you arrived at this conclusion?
- E. Are adequate means of access available for emergency vehicles to serve the site? What is the approximate response time for emergency vehicles? If your application is approved to rezone the property, will additional means of access be required for increased density? Or will existing access ways be adequate? How have you arrived at this conclusion?

ACKNOWLEDGMENT OF APPLICATION

Please type the following signed statement at the end of your application questionnaire:

I certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Applicant

Print Name

Date

Excerpts From the Carson City Master Plan

LAND USE

Carson City is located in Northwestern Nevada approximately 25 miles east of the California-Nevada state line at Lake Tahoe and approximately 25 miles south of Reno. The City is served by U. S. Highways 50 and 395 which trisect the community.

The City is approximately 25 miles long from east and west and varies from four to eleven miles wide. There are five major topographical features: Lake Tahoe, the Carson Range, the Virginia Range, the Pine Nut Mountains and Eagle Valley. The most prominent feature, when viewed from the populated areas of the city, are the steep slopes of the Carson Range which rise some 4,000 feet to exceed a 9,000 foot elevation. On the western border, Lake Tahoe provides inspirational vistas and unlimited recreational opportunities. The Pine Nut and Virginia Ranges exhibit contrast to the lush vegetation of the Carson Range with the granite foothills of the Pine Nuts and the rolling hills of the Virginia Range. The mountain ranges which surround populated Eagle Valley total 73.9% of the land area within Carson City.

Because of the mountainous terrain of Carson City's non-urbanized areas, use for other than recreation is limited. It does provide a wealth of opportunities for camping, hunting, fishing, and hiking and such winter activities as skiing and tobogganing.

Growth in Carson City has primarily occurred in Eagle Valley, which has been a commercial and trade area for more than a century. The City is divided into an urban area and a rural/suburban area. The urban area is primarily that portion of the Eagle Valley that lies within the 15% slope contour. It totals approximately 18,740 acres and comprises approximately 18.6% of the total surface area of Carson City.

The City's urban district represents the boundaries of the City prior to its consolidation with Ormsby County in 1969. There have, in recent years, been annexations of small portions in the rural district into the urban boundaries which have increased the size slightly from its original 2,570 acres. Growth in the urban district has been consistent in all directions. The mid-1970's saw a shift in population from the urban district to the rural as urban land neared its capacity for sustained growth. From approximately 1975 to the present, growth in the rural district has increased at a rate which exceeds the increase displayed in the urban district.

During the last ten years of growth the proportion of properties developed for residential uses in the urban district has decreased from approximately 36.6% in 1970 to approximately 20% of the developed portions of the District in 1980. This has been a result of a marked increase in commercial development in the urban district in 1980.

The communities' residential uses consist of single family dwellings, multi-family dwellings and mobile homes.

Commercial uses are predominately located within 500 feet of Carson and East William Streets. Approximately 70% of commercial uses continue to be of a general retail nature, while tourist oriented uses (service stations, restaurants, motels, hotels and casinos) comprise the remaining 30%.

Industrial uses consume the smallest amount of land area of any designated use. Development of an industrial nature has occurred primarily in the northern and southern sections of the City with some manufacturing and storage uses developing in the Eastern sections.

PROJECT DESCRIPTION

Proposal: Amend the Carson City Master Plan and Zoning Map for APN 00868301 / 1449 South Sutro TE to SINGLE FAMILY ONE ACRE (SF1A) from LIMITED INDUSTRIAL (LI)

Summary/Background:

The retired owners of the single-family residence at 1449 South Sutro TE placed the property up for sale in May 2021 and have a signed purchase agreement for the list price of \$599,900. However, the sale is on hold as the Buyers' lender will not provide financing for the single-family residence built on a land parcel zoned LI due to reconstruction concerns in the event of damage/destruction of the residence. The zoning and land use history of this parcel is described in attached *Hereman v. Carson City Court* decision. The single-family residence was *built in 1979* on this parcel while zoned LI and has sold three times without problems until now. The proposed allows the sale to finalize, maximizing the value to all stakeholders. Additionally, the proposed synchronizes the Master Plan and Zoning Map with the actual Land Use that has existed since the single-family residence was *built in 1979* with no impact to the surrounding properties, neighborhood, or Carson City infrastructure.

The proposed maximizes the value of the property to all Stake Holders by the following:

1. Carson City gains \$5,500 in application fees, approximately \$3,146 annually in additional property tax revenue based on the 1449 South Sutro TE purchase agreement sales price, and additional annual property tax revenue based on the purchase price of the other Carson City property.
2. The retired, 78-year-old, applicant/owner gains the sale of the single-family residence for the list price of \$599,900 and completes the purchase of another Carson City property. The applicant is downsizing residence due to age. *On 19 May 2021 the co-owner, Henry Wentzlaff, died* after the signed purchase agreements for 1449 South Sutro TE and the other property occurred. The death of her husband further increased the requirement to downsize to a smaller property and ensure financial security.
3. The buyer gains the desired single-family residence. The buyer's lender provides the required financing as reconstruction concerns are mitigated.

The Proposed has no impact to the adjacent properties, surrounding neighborhood, or Carson City public infrastructure. The proposed maintains the expected and supported land use of the *past 42 years*. The adjacent property to the west contains a single-family residence and is zoned SF1A. The adjacent property to the east contains a commercial structure built in 1984 and is zoned LI. The adjacent properties to the south are vacant lots zoned "Public Regional" and Master Plan designation "Parks and Recreation". The friction that existed with the east adjoining property and Carson City was resolved in the attached 1986 Lawsuit *HERMAN v. CARSON CITY*.

Note: the property tax annual increase for 1449 S. Sutro TE was estimated using the Nevada Property Tax Guide, <https://www.carson.org/government/departments-g-z/treasurer/property-taxes>, new Taxable value and Assessed value (\$599,900 / \$209,965) based on purchase price, and new taxes due based on the tax rate derived from 2020/21 taxes paid.

Herman, Robert & Mylie 2-25-1 7/75

1449 S Sutro Terrace 008-681-7 m-1 to A-1

Z-15-1

CARSON CITY COMMUNITY
DEVELOPMENT DEPARTMENT

CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL
RECEIVED

SENT *Da*
BY

November 20, 1986

Mr. Lynn Hamilton
Carson City Manager
2621 Northgate Lane
Carson City, Nevada

Re: Herman v. Carson City

Dear Lynn:

Attached please find copies of the district court's November 19, 1986 decisions granting summary judgment for defendant Carson City in the above-entitled case.

This lawsuit involves allegations by the plaintiffs Robert and Mylie Herman that defendant Carson City improperly rezoned their property in 1978 and 1979 and failed to enforce a fifty foot side yard setback in 1984 when Carson City issued a building permit to Norman Bassett for the construction of a \$326,000 commercial structure (Bestways Magazine) on the lot line of a parcel located adjacent to the Herman property. The Hermans filed their lawsuit in August of 1985 and sought in the alternative to have either the Bassett building dismantled and moved to the east fifty feet by Carson City or for money damages based on theories of negligence, nuisance, civil rights and trespass.

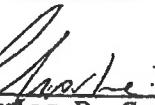
The attached decisions by Judge Griffin deny as a matter of law the Hermans' ability to obtain a mandatory injunction compelling the dismantling and moving of the Bassett building. Judge Griffin's second order dismisses all theories of negligence, nuisance, civil rights and trespass as to defendant Carson City save and except whether John Hoole abused his discretion when he waived a ten foot side yard setback pursuant to CCMC 18.06.194. This ordinance provided that such ten foot side yard setback could be waived. The present ordinance requires no such setback and in fact mandates its waiver.

Lynn Hamilton
November 20, 1986
Page Two

The remaining issue as to Hoole's waiver will go to trial on January 13, 1987 for a four day jury trial unless the Hermans decide to appeal the attached decisions to the Nevada Supreme Court. It is my opinion that the Hermans will seek a stay of the judge's attached decisions and appeal to the Nevada Supreme Court.

Please provide this letter and the attached information to the supervisors as Stan Hansen was one of the named defendants in this case. If you have any questions regarding this case or the attached decisions of Judge Griffin, please feel free to call.

NOEL S. WATERS
DISTRICT ATTORNEY

By 
Charles P. Cockerill
Chief Deputy District Attorney

CPC/d
Attachments
cc: Walt Sullivan w/attachments
Glen Finnell w/attachments
John Hoole w/attachments
Noel Waters w/attachments

1 CASE NO. 85-01301A

2 DEPT. NO. I

F D T D

3 '86 NOV 19 P 3:17

4
5
6 BY 11/20/86

7 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR CARSON CITY

9 * * *

10 ROBERT F. HERMAN
11 and MYLIE HERMAN,

12 Plaintiffs,

13 vs.

14 CARSON CITY, a political
15 subdivision of the State
16 of Nevada and NORMAN BASSETT.

17 FINDINGS OF FACT,
18 CONCLUSIONS OF LAW
19 AND PARTIAL SUMMARY
20 JUDGMENT

21 Defendants.

22
23 This matter came before this Court on October 7, 1986 for
24 a hearing on Plaintiffs' Motion for Summary Judgment filed May 27, 1986,
25 Defendant CARSON CITY's Cross-Motion for Summary Judgment filed June 25,
1986 which has been joined by Defendant NORMAN BASSETT and Defendant
NORMAN BASSETT's Motion for Summary Judgment filed September 24, 1986.
Defendant CARSON CITY was represented by CHARLES P. COCKERILL, Chief
Deputy District Attorney and ROBERT L. AUER, Deputy District Attorney.
The Plaintiffs were present in Court and represented by ROBERT C.
HERMAN, ESQ. Defendant NORMAN BASSETT was represented by ANDREW
MACKENZIE, ESQ.

This Court will decide by separate order the motion and
cross-motion for summary judgment as to the First Claim for Relief
(Injunction) and the Eighth Claim for Relief (Trespass) of Plaintiffs'

1 First Amended Complaint.

2 This Court has received and considered the points and
3 authorities in support and opposition of the motion and cross-motion for
4 summary judgment, arguments, affidavits, exhibits admitted in evidence,
5 depositions received in evidence, testimony of Walter Sullivan and the
6 oral decision of this court and hereby makes the following Findings of
7 Fact, Conclusions of Law and Judgment with respect to the Second through
8 Seventh Claims for Relief of Plaintiffs' First Amended Complaint.

9 GENERAL

10 This lawsuit involves allegations by the Plaintiffs ROBERT and
11 MYLIE HERMAN (hereinafter the HERMANS) that Defendant CARSON CITY
12 improperly rezoned their property in 1978 and failed to enforce a fifty
13 foot (50') side yard setback requirement in 1984 when it issued a
14 building permit to NORMAN BASSETT (hereinafter BASSETT) for the
15 construction of a commercial structure (Bestways Magazine) on the lot
16 line of a parcel located adjacent to the HERMAN property. It is
17 admitted by the HERMANS that BASSETT's parcel is properly zoned for a
18 light commercial building. The HERMANS seek in the alternative to have
19 the BASSETT building moved to the east or money damages based on
20 theories of negligence, nuisance, civil rights and trespass.

21 FINDINGS OF FACT

22 1. Plaintiffs ROBERT and MYLIE HERMAN are, and at all times
23 pertinent herein, were residents of Carson City, Nevada and the owners
24 of real property located at 1449 S. Sutro Terrace, Carson City, Nevada
25 (APN 8-681-7).

26 2. Defendant CARSON CITY is a political subdivision of the
27 State of Nevada and at all times pertinent herein was responsible for
28 enacting and administering ordinances establishing land use (zoning)

1 districts within the boundaries of Carson City, Nevada.

2 3. Defendant NORMAN BASSETT is, and at all times pertinent
3 herein was, a resident of Carson City, Nevada and is the owner of real
4 property located at 1501 S. Sutro Terrace, Carson City, Nevada (APN
5 8-681-8) which property adjoins and is located immediately to the east
6 of the above-described property owned by Plaintiffs.

7 4. The HERMAN parcel was rezoned from M-1 (Industrial)
8 zoning to A-1 (Residential One Acre) zoning in August, 1975.

9 5. In 1976 CARSON CITY initiated a comprehensive rezoning of
10 all real property in Carson City. Public hearings for the comprehensive
11 rezoning were held before the Carson City Regional Planning Commission.
12 The Board of Supervisors held public hearings on the proposed
13 comprehensive rezoning including the new ordinance and map on March 23,
14 April 6 and 13, 1978. The new zoning map was incorporated by reference
15 in Carson City in Ordinance No. 1978-8 pursuant to Carson City Municipal
16 Code (hereinafter CCMC) 18.04.030 and was placed on display in the
17 office of the Planning Director.

18 6. Notice of the April 14, 1977 Planning Commission meeting
19 was sent out to all Carson City property owners on March 29, 1977. The
20 mailing list for this notice was based on the 1976 Carson City
21 Assessment Roll. On this Assessment Roll the HERMANS were listed twice:
22 1309 Sharon Drive and APN 8-681-7 on South Sutro Terrace. The mailing
23 address for both properties was 1309 Sharon Drive, Carson City, Nevada.
24 Several notices were returned, but not the HERMANS' notices. This
25 Notice was also published in the Nevada Appeal on March 30, 1977 and
26 April 6, 10, 13, 1977.

27 7. On April 13, 1978 the Carson City Board of Supervisors
28 enacted a new zoning ordinance and new zoning map (Ordinance No. 1978-8)

1 which repealed all zoning in Carson City and enacted new zoning
2 classifications for all of Carson City and specifically changed the
3 zoning of the HERMAN parcel from agricultural one acre to general
4 industrial zoning and the BASSETT parcel from industrial to general
5 industrial zoning. The original new zoning map incorporated by
6 reference in Ordinance No. 1978-8 was received in evidence at the
7 hearing on this matter.

8 8. On July 7, 1978 the Carson City Board of Supervisors
9 changed the zoning on the BASSETT property from general industrial to
10 limited industrial.

11 9. In January, 1979 the HERMANS commenced construction of a
12 residence on their South Sutro Terrace parcel with a fifty-four foot (54
13 ft.) setback from their east property line (common property line with
14 BASSETT parcel). At this time the HERMANS were informed by the building
15 contractor that their property was zoned industrial.

16 10. On February 2, 1979 the Carson City Board of Supervisors
17 changed the zoning of the HERMAN property from general industrial to
18 limited industrial and the east portion of the BASSETT parcel from
19 limited industrial to general industrial. The result was that limited
20 industrial zoned property (HERMAN parcel) abutted limited industrial
21 zoned property (west portion of BASSETT parcel).

22 11. In June, 1984 BASSETT applied for a building permit to
23 build a light commercial structure on his property that was appropriate
24 for limited industrial zoning. BASSETT's plan showed the proposed
25 building to be located on the west lot line of his parcel with no side
26 yard setback. At this time, CCMC 18.06.194 imposed a waiveable ten foot
27 (10 ft.) side yard setback between limited industrial properties. In
28 September, 1984 then Community Development Director John Hoole waived

1 the west side yard setback for the BASSETT property pursuant to CCMC
2 18.02.051 and CCMC 18.06.194. The building permit for the BASSETT
3 property was issued on September 14, 1984 and construction commenced. A
4 portion of BASSETT's building was constructed on the common property
5 line shared by the HERMANS.

6 12. The HERMANS never challenged the April, 1978, July, 1978
7 or February, 1979 zone changes until they filed this action on August
8 16, 1985.

9 13. The HERMANS never appealed then Community Development
10 Director JOHN HOOLE's September, 1984 discretionary decision waiving
11 BASSETT's side yard setback pursuant to CCMC 18.02.058.

12 14. The HERMANS received actual and constructive notice of
13 the April, 1978 comprehensive rezoning, the July, 1978 rezoning of the
14 BASSETT parcel and the February, 1979 rezoning of the HERMAN and BASSETT
15 parcels.

16 CONCLUSIONS OF LAW

17 1. This Court has, pursuant to N.R.C.P. 56, reviewed the
18 evidence in a light most favorable to the nonmoving party and has given
19 that party the benefit of all favorable inferences that may be drawn
20 from the admissible subsidiary facts. This Court expressly finds that
21 so far as the Second through Seventh Claims for Relief of Plaintiffs'
22 First Amended Complaint are concerned the only disputed material fact
23 based on the admissible evidence is whether former Planning Director
24 John Hoole acted properly when he waived the ten foot (10 ft.) side yard
25 setback for Defendant NORMAN BASSETT in September, 1984.

26 2. In April, 1978 CARSON CITY completed a comprehensive
27 rezoning of all property in Carson City with the lawful enactment of
28 Ordinance No. 1978-8.

1 3. Legal notice for the above comprehensive rezoning was
2 provided to the Plaintiffs. This Court finds expressly that the notice
3 to every individual landowner in Carson City, as well as the publication
4 of that notice, is sufficient under Nevada Law and the Nevada and United
5 States Constitution, when a comprehensive city-wide rezoning occurs.

6 4. Ordinance No. 1978-8 is clothed with a presumption of
7 validity and the HERMANS have failed to overcome this presumption. See
8 Coronet Homes, Inc. v. McKenzie, 84 Nev. 250, 256 (1968). All legal
9 requirements contained in NRS Chapters 244 and 278 and CCMC Title 18 and
10 the Carson City Charter for the enactment of Ordinance No. 1978-8 were
11 fully complied with. The new master zoning map was properly
12 incorporated by reference in Ordinance No. 1978-8 and as a result of
13 this comprehensive rezoning the HERMAN and BASSETT parcels were zoned
14 general industrial.

15 5. The July, 1978 zone change for the BASSETT parcel to
16 limited industrial and February, 1979 zone change of the HERMAN parcel to
17 limited industrial complied with all legal requirements of Carson City,
18 Nevada and Federal Law.

19 6. The Plaintiffs have not been deprived of any federally
20 protected constitutional rights by CARSON CITY's zoning actions in this
21 action and therefore the sixth and seventh claims for relief are barred.

22 7. The HERMANS' Sixth Claim for Relief alleges a deprivation
23 of Federal Civil Rights based on allegedly unconstitutional notice.
24 This Court expressly finds that all notice challenged in this claim was
25 constitutionally satisfactory and on this basis this claim is dismissed.

26 8. The HERMANS' seventh claim for relief alleges a 42 U.S.C.
27 §1983 cause of action that is based on allegations of mere negligence or
28 lack of due care by CARSON CITY or one of its public offices and is

1 therefore barred by Daniels v. Williams, 106 S.Ct. 668 (1986) and
2 Davidson v. Cannon, 106 S.Ct. 662 (1986).

3 9. As to the Seventh Claim for Relief the Plaintiffs have
4 failed to allege or prove an unconstitutional custom or policy of
5 Defendant CARSON CITY which has harmed the HERMANS.

6 10. In September, 1984 CCMC 18.06.194 imposed a waiveable ten
7 foot (10 ft.) side yard setback between limited industrial zoned
8 properties.

9 JUDGMENT

10 Based on the foregoing, Defendant CARSON CITY's and NORMAN
11 BASSETT's Cross-Motion for Summary Judgment is granted, denied or
12 submitted as follows:

13 CLAIMS FOR RELIEF:

14 1. Injunction: This matter is decided by separate order of
15 this court.

16 2. Declaratory Relief: Summary Judgment is granted in favor
17 of Defendants CARSON CITY and NORMAN BASSETT as to this
18 claim for relief as follows: In September 1984 the
19 relevant portions of the HERMAN and BASSETT parcels were
20 zoned limited industrial and at that time CCMC 18.06.194
21 imposed a waiveable ten foot (10 ft.) side yard setback
22 between limited industrial zoned properties.

23 3. Negligence: Summary Judgement is granted in favor of
24 Defendants CARSON CITY and NORMAN BASSETT as to this
25 claim for relief with the exception of whether then
26 Community Development Director JOHN HOOLE's decision to
27 waive the ten foot (10ft.) side yard setback was proper
28 or negligent resulting in damage to Plaintiffs.

1 4. Nuisance (Injunction): Since this Claim for Relief
2 requests an Injunction to enforce a fifty foot (50 ft.)
3 side yard setback and since this Court has already
4 declared that the relevant properties were zoned limited
5 industrial in September, 1984, thus requiring only a ten
6 foot (10 ft.) waiveable side yard setback and since CCMC
7 18.06.194 has been amended to presently require no side
8 yard setback under the circumstances presented in this
9 case, there can be no continuing violation and therefore
10 no nuisance and thus this claim is moot. Summary
11 Judgment is granted in favor of Defendants CARSON CITY
12 and NORMAN BASSETT as to this claim for relief.

13 5. Nuisance (Damages): Summary Judgment is granted in favor
14 of Defendants CARSON CITY and NORMAN BASSETT as to this
15 claim for relief with the exception of whether then
16 Community Development Director JOHN HOOLE's decision to
17 waive the ten foot (10 ft.) side yard setback was proper
18 or negligent resulting in damage to Plaintiffs.

19 6. Civil Rights: Summary Judgment is granted in favor of
20 Defendant CARSON CITY as to this claim for relief because
21 all notice was constitutionally sufficient and because
22 the Plaintiffs have not been deprived of any federally
23 protected constitutional rights by CARSON CITY's zoning
24 actions in this action.

25 7. Civil Rights: Summary Judgment is granted in favor of
26 Defendant CARSON CITY as to this claim for relief because
27 alleged negligence cannot be a basis for 42 U.S.C. § 1983
28 liability. Further, no unconstitutional custom or policy

of Defendant CARSON CITY has been proved which has harmed the HERMANS.

8. Trespass: As to Defendant BASSETT this matter is submitted for decision after Plaintiffs file additional evidence and Defendant BASSETT replies thereto. As to Defendant CARSON CITY, Summary Judgment is granted in favor of Defendant CARSON CITY pursuant to the oral stipulation of counsel for Plaintiffs at the hearing on this matter that CARSON CITY was erroneously included in this claim for relief.

Each party shall bear his own attorneys fees and costs.

DATED this 19 day of November, 1986.

Michael R. Griffini

DISTRICT JUDGE

1 CASE NO. 85-01301A

2 DEPT. NO. I

3 86 NOV 19 P 3:19

4 TEL

5 BY D. THOMAS

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

8 * * *

9 ROBERT F. HERMAN
10 and MYLIE HERMAN,

11 Plaintiffs,

12 vs.

13 CARSON CITY, a political
14 subdivision of the State
of Nevada and NORMAN BASSETT.

15 Defendants..

16 FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND SUMMARY JUDGMENT
ON FIRST CLAIM FOR
RELIEF - INJUNCTION

17 This matter came before this Court on October 7, 1986 for a
18 hearing on Plaintiffs' Motion for Summary Judgment filed May 27, 1986.
19 Defendant CARSON CITY's Cross-Motion for Summary Judgment filed June 25,
20 1986 which has been joined by Defendant NORMAN BASSETT and Defendant
21 NORMAN BASSETT's Motion for Summary Judgment filed September 24, 1986.
22 Defendant CARSON CITY was represented by CHARLES P. COCKERILL, Chief
23 Deputy District Attorney and ROBERT L. AUER, Deputy District Attorney.
24 The Plaintiffs were present in Court and represented by ROBERT C. HERMAN,
25 ESQ. Defendant NORMAN BASSETT was represented by ANDREW MACKENZIE, ESQ.

26 This Court incorporates by this reference all Findings of Fact,
27 Conclusions of Law and Partial Summary Judgment rendered in this case with
28 respect to the Second through Seventh Claims for Relief of Plaintiffs' First
Amended Complaint.

1 These Findings of Fact, Conclusions of Law and Summary Judgment
2 relate solely to the First Claim for Relief - Injunction of the HERMANS'
3 First Amended Complaint. This Court has received and considered the points
4 and authorities in support and opposition of the motion and cross-motion for
5 summary judgment on the issue of injunction, arguments, affidavits, exhibits
6 admitted in evidence, depositions received in evidence, testimony of Walter
7 Sullivan and hereby makes the following Findings of Fact, Conclusions of Law
8 and Judgment with respect to the First Claim for Relief - Injunction of
9 Plaintiffs' First Amended Complaint.

10 GENERAL

11 In their First Claim for Relief the HERMANS seek a mandatory
12 injunction requiring Defendants CARSON CITY and NORMAN BASSETT to dismantle
13 and move the Bestways Magazine building to the east fifty (50) feet from the
14 common side yard property line. Defendants have filed a cross-motion for
15 summary judgment on the issue of whether a mandatory injunction should
16 issue.

17 A mandatory injunction compelling the alteration, destruction or
18 removal of property should be granted with extreme caution and should not be
19 granted unless serious injury is being inflicted on the party seeking
20 relief. See Motor Lodges, Inc. v. Willingham, 509 P.2d 901, 903 (Okla.
21 1972). The granting or withholding of such an injunction lies with the
22 Court's legal discretion. See Thorn v. Sweeney, 12 Nev. 251, 260 (1877).

23 In order to determine whether injunctive relief is appropriate
24 this Court must:

25 1. Decide if the party seeking relief has suffered irreparable
26 injury; and

27 2. Decide if there is an adequate remedy at law which would make
28 injunctive relief unnecessary. See Thorn v. Sweeney, supra at 256.

Other factors to be considered by the Court are:

- "a. The character of the interest to be protected;
- b. The plaintiffs delay, if any, in bringing suit;
- c. The misconduct of plaintiff, if any;
- d. The relative hardship likely to result to defendant if an injunction is granted and to the plaintiff if it is denied;
- e. The interest of third persons and of the public; and
- f. The practicality of framing and enforcing the Order or Judgment." See Lenhoff v. Birch Bay Real Estate, Inc., 587 P.2d 1087, 1091 (Wash. App. 1978).

FINDINGS OF FACT

1. By this reference this Court hereby incorporates the Findings of Fact in its previous order granting partial summary judgment in this matter.

2. The HERMANS were advised in January, 1979 by their building contractor, ROGER FOLEY, that their South Sutro Terrace property (APN 8-681-7) was zoned industrial. MR. FOLEY learned this fact when he applied for the HERMANS' residential building permit.

3. When Defendant BASSETT began construction of his light industrial building in September, 1984, MR. HERMAN personally observed the BASSETT contractor staking the future location of the BASSETT building on his lot line, the excavation for the building and allowed the concrete contractor to come onto the HERMAN property to pour the concrete foundation on the HERMAN lot line.

4. In September, 1984, MR. HERMAN went to the Community Development Department and was advised by Administrative Assistant DONNA ANDERSON that then Community Development Director JOHN HOOLE had waived the east side yard setback for Defendant BASSETT since limited industrial zoned property (HERMAN) abutted limited industrial zoned property (BASSETT). MR. HERMAN learned this fact prior to BASSETT's building permit being issued on

1 September 14, 1984.

2 5. The HERMANS never sought an administrative appeal of HOOLE's
3 September, 1984 waiver of the side yard setback as is allowed by Carson City
4 Municipal Code (hereinafter CCMC) 18.02.058.

5 6. Construction of the BASSETT building was completed at a cost
6 of approximately Three Hundred Twenty-Six Thousand Dollars (\$326,000). The
7 Certificate of Occupancy was issued April 24, 1985.

8 7. The HERMANS own appraiser, BRAD LENCIOMI, estimated fair
9 market value of the HERMAN property and residence to be One Hundred
10 Thirty-Five Thousand Dollars (\$135,000) in May, 1985. This appraisal was
11 performed after the BASSETT building was completed and occupied. Herman
12 Answer to First Set of Interrogatories, No. 4.

13 8. In addition, after the BASSETT building was completed and
14 occupied the HERMANS received two written offers in 1986 to purchase their
15 South Sutro Terrace property and residence: 1) Offer Number One - \$100,000;
16 2) Offer Number Two - \$135,000. The first offer was rejected and the
17 second offer was accepted by the HERMANS.

18 9. The Carson City Board of Supervisors amended CCMC 18.06.194
19 to presently require waiver of the side yard setback between limited
20 industrial zoned properties.

21 10. The HERMANS filed this action on August 16, 1985.

22 CONCLUSIONS OF LAW

23 1. The Parties have filed cross motions for summary judgment on
24 the issue of mandatory injunction. This Court has, pursuant to N.R.C.P. 56,
25 reviewed the evidence in a light most favorable to the nonmoving party and
26 has given that party all favorable inferences that may be drawn from the
27 admissible subsidiary facts. Because the admissible material facts and law
28 regarding the propriety of injunctive relief are not in dispute, resolution

1 of a mandatory injunction through the medium of summary judgment is
2 appropriate. See Smith v. City of Las Vegas, 80 Nev. 220, 391 P.2d 505
3 (1964). By this reference this Court hereby incorporates the Findings of
4 Fact, Conclusions of Law and Partial Summary Judgment in its previous order
5 in this matter.

6 2. In order to seek a mandatory injunction, the HERMANS must
7 demonstrate that the side yard setback they seek to enforce is still
8 required by law. Compare Radach v. Gunderson, 695 P.2d 128, 133 (Wash. App.
9 1985). The HERMAN parcel and the west portion of the BASSETT parcel are
10 presently zoned limited industrial and pursuant to the present CCMC
11 18.06.194 "the side yard setback shall be waived" between limited industrial
12 zoned properties. Therefore, there can be no continuing violation and even
13 if this Court were to assume for the sake of argument that the construction
14 of the building in 1984 was in violation of CCMC 18.06.194
15 this building could presently be built on the HERMANS' lot line with no
16 setback under the current municipal code. Since there is no continuing
17 violation, the HERMANS cannot show irreparable injury. It is a fundamental
18 principle of law that injunctive relief is not available in the absence of
19 actual or threatened injury, loss or damage. See NRCP 65; see also Berryman
20 v. Int'l. Bhd. of Elec. Workers, 82 Nev. 277, 280, 416 P.2d 387 (1966). It
21 is a well settled legal principle that a right to an injunction rests solely
22 upon the continuance of the zoning law governing said order. The injunction
23 is thus subject to termination whenever the zoning law has changed. Such is
24 the case in the instant action. See Trappe v. Longaker, 430 A.2d 713 (Pa.
25 Cmmth. 1981); see also Partain v. City of Royston, 284 S.E.2d 15 (Ga. 1981)
26 and Erickson v. Groomer, 336 P.2d 296 (Colo. 1959).

27 3. Equity will not take jurisdiction or interpose its powers
28 when there is a full, complete and adequate remedy at law and when a wrong

1 complained of can be fully compensated in money damages. See Conley v.
2 Chedic, 6 Nev. 222, 224 (1870). The HERMANS' own appraiser has given his
3 opinion that their residence and property has a fair market value of
4 \$135,000 even with the BASSETT building located on their property line with
5 no side yard setback. The HERMANS have accepted a \$135,000 written offer to
6 purchase their residence and property. The HERMANS have an adequate remedy
7 at law and therefore injunctive relief is not available. See State
8 (Mongolo) v. District Court, 46 Nev. 410, 416-17, 211 P.105 (1923).

9 4. The financial hardship which Defendants would face if this
10 Court grants a mandatory injunction would be substantial. The case of
11 Gladstone v. Gregory, 95 Nev. 474, 596 P.2d 491 (1979) allows a Court to
12 balance equities if Plaintiffs engage in some inequitable conduct. Id. at
13 page 480. The facts of the case at bar do demonstrate that the HERMANS have
14 engaged in inequitable conduct while Defendants CARSON CITY and BASSETT have
15 clean hands. The HERMANS failed to have their zoning clarified in 1979 when
16 they were informed by their own building contractor that their property was
17 zoned industrial. They further sat on their legal rights in September, 1984
18 and watched BASSETT construct his light industrial building. BASSETT has
19 suffered a substantial change of position by completing construction on a
20 three hundred twenty-six thousand dollar (\$326,000.00) commercial building.
21 Considering the special facts and circumstances of the instant case, the
22 HERMANS are equitably estopped from seeking a mandatory injunction. See
23 Richards v. City of Highland, 375 N.E.2d 1023 (Ill. App. 1978); see also
24 Sharrett v. Campbell, 440 N.E.2d 167 (Ill. App. 1982); Penelko, Inc., v.
25 John Price Associates, Inc., 642 P.2d 1229 (Utah 1982); and Lenhoff v. Birch
26 Bay Real Estate, Inc., 587 P.2d 1087 (Wash. App. 1978).

27 JUDGMENT

28 Based on the foregoing, the Plaintiffs' Motion for Summary

1 Judgment on the issue of mandatory injunction is denied and Defendants
2 CARSON CITY and NORMAN BASSETT's Cross-Motion for Summary Judgment seeking
3 denial of the mandatory injunction as a matter-of-law is granted.

4 Each party shall bear his own attorney's fees and costs.

5 Dated this 19 day of November, 1986.

Mark R. Griffin

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8 DISTRICT JUDGE
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Client All Fields

  	MLS #	210005288	Asking Price	\$599,900
	Status	Under Contract-Show	Bedrooms #	3
	Class	Residential	Baths #Full or 3/4	3
	Type	Single Family Residence	# Half Baths	0
	Address	1449 S Sutro	# Garage	2
	Unit #		# Carport	0
	City	Carson City	Total Parking Cap.	2
	State	NV	Acreage	1.00
	Zip	89706	Year Built	1979
	Area	250 Carson N.E.	Total Living Space	2248
	County	Carson City	Price per SQFT	\$266.86


General

Stories	Tri-Level	Original Price	\$599,900
Construction	Site/Stick-Built	Zoning Actual	LI
Common Interest Ownership	No	Sale/Lease	For Sale
Attached Common Wall	No	Special Condition of Sale	None
Water Rights	No	CC/R Restrictions	Yes
Horses Okay	No	Days on Market	35
Parcel #	00868301	IPES	
Taxes \$	\$1,977.00	Virtual Tour	
Assessment \$	0.00	Xstreet/Directions	Emerson
Available for Showing		Unconverted Manuf. Housing Only	
Source of Zoning	Assessor	MH License #	
HOA	No	Width	
Average Monthly CIC Fee		Skirting	
Total Transfer Fees		Serial #	
Total Setup Fees	0.00	HUD #	
Total Other Fees	0.00	Personal Property Taxes	
Elementary School	Mark Twain	Condo Only	
Middle School	Carson	Unit Level	
High School	Carson		
Possession	Seller Requires Rent Back		



Features

GARAGE TYPES	Attached, Detached, Both Att & Det, RV Access /Parking	FOUNDATION	Concrete - Crawl Space, Concrete Slab
HOA AMENITIES	No Amenities	EXTERIOR	Stucco
ADJOINS	Undeveloped Acr	ROOF	Pitched, Tile
VIEW	Yes, Mountain, Desert, Trees	HEATING/COOLING	Natural Gas, Baseboard, Fireplace, Evap Cooling
PERSONAL PROPERTY	Storage Shed	WATER HEATER	Natural Gas
INCL		WINDOWS	Double Pane, Metal Frame
APPLIANCES INCL	Washer, Dryer, Refrigerator in Kitchen	FIREPLACE	Yes, One, Fireplace
PSNL PROP		UTILITIES	Electricity, Natural Gas, City - County Water, Septic, Water Meter Installed, Internet Available, Cellular Coverage Avail
INTERIOR FIXTURES	Drapes - Curtains, Blinds - Shades, Smoke Detector(s)	LANDSCAPED	Yes, Fully Landscaped
LIVING ROOM	Separate/Formal, High Ceiling	SPRINKLERS	Front, Drip-Full
DINING ROOM	Great Room	FENCED	Back
FAMILY ROOM	Separate, Firplace-Woodstove-Pellet	PATIO/DECK	Yes, Covered, Deck
KITCHEN	Built-In Dishwasher, Breakfast Bar, Cook Top - Electric, Double Oven Built-in	EXTERIOR FEATURES	None - NA
MASTER BEDROOM	Double Sinks, Shower Stall	WATER TEST	No
LAUNDRY AREA	Yes, Laundry Room, Cabinets, Shelves	ACCESS	Public
OTHER ROOMS	Office-Den(not incl bdrm)	TOPOGRAPHY	Downslope
FLOOR COVERING	Carpet, Ceramic Tile, Sheet Vinyl	OWNER(S) MAY SELL	Conventional, VA, Cash, Exchange 1031

MLS Remarks

North Carson Spanish Style home. 1 acre property with huge views and no rear neighbor. Unobstructed peace and quiet. 3 separate patios and a balcony for entertaining and outdoor enjoyment. Private lot with huge circular driveway. 2 car attached garage and 1 car structure with sliding door large enough to fit the 3rd car. RV access to the back yard with a double wide gate. Backyard is serene with fruit trees, 2 ponds, and a deck to access the best views in Carson. No HOA in for this area.

Extended Remarks

21 miles to Reno International Airport, 5 minutes to HWY 395, and 35 minutes to Lake Tahoe. Carson-Tahoe hospital is 7 minutes away. BLM land and walking trails are abundant and within distance of the front door.

Sold Information

Contract Date	4/27/2021	How Sold
Closing Date		Sold Price
Sold Price per SqFt		

Information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing. Information deemed reliable but not guaranteed

The seller of this property is represented by: eXp Realty
210005288

Daniel D Puz

05/26/2021

Page 2 of 2

Site Plan: Site Map - APN 00868301 / 1449 South Sutro TE



Google AppGeo

1" = 40 ft

Property Information

Property ID 00868301
 Location 1449 SOUTH SUTRO TER
 Owner WENTZLAFF LIVING TRUST
 Acres 1



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.

Geometry updated 11/17/2018
 Data updated 11/17/2018

Print map scale is approximate.
 Critical layout or measurement
 activities should not be done using
 this resource.

Sharon Wentzlaff, 1449 S. Sutro TE,
 Carson City, NV 89706, 775-841-6768
 APN 00868301 / 1449 S. Sutro TE
 Zoning Amendment to SF1A from LI

Map Theme Legends

Address Points

ADDRESS POINT

Master Plan

- Community / Regional Commercial
- Neighborhood Commercial
- Industrial
- Rural Residential (6-20 ac/du)
- Low Density Residential (0.2-3 du/ac or 5-0.33 ac/du)
- Medium Density Residential (3-8 du/ac)
- High Density Residential (8-36 du/ac)
- Public / Quasi-Public
- Washoe Tribe
- Office
- Vacant Private Land
- Conservation Reserve (Private)
- Downtown Mixed-Use
- Mixed-Use Commercial
- Mixed-Use Residential
- Mixed-Use Employment
- Public Conservation
- Open Space
- Parks & Recreation

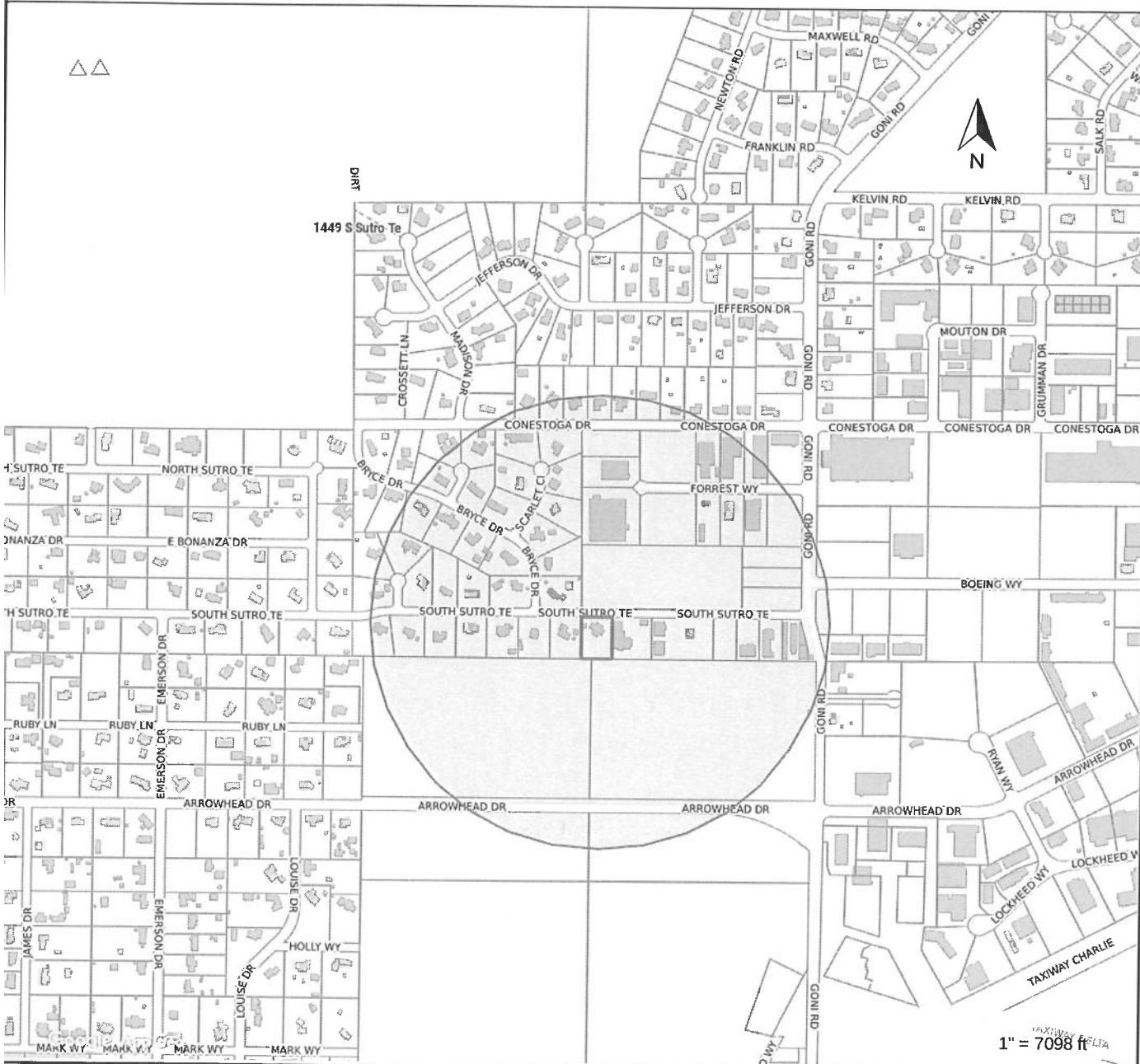
Carson City, NV Master Plan Land Use This layer should not be confused with current land usage, which is called zoning. This layer depicts the future planned land usage agreed upon by the Carson City Planning Department and the Board of Supervisors.

Current Zoning

- ZONECODE
- Agricultural
- Airport Industrial Park
- Conservation Reserve
- Downtown Mixed-Use
- General Commercial
- General Commercial PUD
- General Commercial SPA
- General Industrial
- General Industrial Airport
- General Office
- Limited Industrial
- Multi-Family Apartments
- Multi-Family Apartments PUD
- Multi-Family Apartments SPA
- Multi-Family Duplex
- Multi-Family Duplex PUD
- Multi-Family Duplex SPA
- Mobilehome - 6,000 sf
- Mobilehome - 6,000 sf PUD
- Mobilehome - 12,000 sf
- Mobilehome - 1 ac
- Mobilehome Park
- Neighborhood Business
- Neighborhood Business PUD
- Neighborhood Business SPA
- Public
- Public Community
- Public Community PUD
- Public Community SPA
- Public Neighborhood
- Public Neighborhood PUD
- Public Regional
- Retail Commercial
- Retail Commercial PUD
- Residential Office
- Residential Office PUD
- Single-Family - 6,000 sf
- Single-Family - 6,000 sf PUD
- Single-Family - 6,000 sf SPA
- Single-Family - 12,000 sf
- Single-Family - 12,000 sf PUD
- Single-Family - 21,000 sf
- Single-Family - 21,000 sf PUD
- Single-Family - 1 ac
- Single-Family - 1 ac PUD
- Single-Family - 2 ac
- Single-Family - 2 ac PUD
- Single-Family - 5 ac
- Tourist Commercial
- Tourist Commercial PUD

Carson City Zoning Boundary Layer. Layer was created using the Carson City Parcel Boundary File and the Carson City Street Centerline File.

Site Plan: Vicinity Map APN 00868301 / 1449 South Sutro TE



Property Information

Property ID 00868301
 Location 1449 SOUTH SUTRO TER
 Owner WENTZLAFF LIVING TRUST
 Acres 1



MAP FOR REFERENCE ONLY
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Geometry updated 11/17/2018
 Data updated 11/17/2018

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Sharon Wentzlaff, 1449 S. Sutro TE,
 Carson City, NV 89706, 775-841-6768
 APN 00868301 / 1449 S. Sutro TE
 Zoning Amendment to SF1A from LI

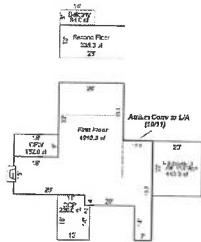
Carson City Property Inquiry

Property Information

Parcel ID	008-683-01	Parcel	1.0000
Tax Year	2021 <input type="button" value="▼"/>	Acreage	
Land Use	RES	Assessed	81,143
Group		Value	
Land Use	200 - Single Family Residence	Tax Rate	0.0000
Zoning	LI	Total Tax	\$0.00
Tax District	024	Fiscal Year	(2021 - 2022)
Site Address	1449 SOUTH SUTRO TERR	Total Unpaid	\$0.00
		All Years	
			Pay Taxes
Public Notes	FIREPLACE, ROOFED PORCH, 84 SF WD BALCONY, (03 180 SF ATRIUM CONV TO L/A) LIVING RM, DINING RM, DEN 88% ONE STORY, 22% TWO STORY		

Sketches & Photos

Converted Sketch



● Assessments

Taxable Value	Land	Building	Per. Property	Totals
Residential	94,000	137,838	0	231,838
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	94,000	137,838	0	231,838

Assessed Value	Land	Building	Per. Property	Totals
Residential	32,900	48,243	0	81,143
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	32,900	48,243	0	81,143

	New Land	New Const.	New P.P.	Omit Bldg
Residential	0	0	0	0
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Totals	0	0	0	0

● Assessor Descriptions

Assessor Descriptions	Subdivision Name	Section	Township	Range	Block & Lot
Changed from Parcel #008-681-07,97-98,*****8		33	T16N	R20E	

No Personal Exemptions

No Billing Information

Payment History

Fiscal Year	Total Due	Total Paid	Amount Unpaid	Date Paid
+(2020 - 2021)	\$1,977.82	\$1,977.82	\$0.00	2/12/2021
+(2019 - 2020)	\$1,920.24	\$1,920.24	\$0.00	3/3/2020
+(2018 - 2019)	\$1,882.96	\$1,882.96	\$0.00	3/1/2019
+(2017 - 2018)	\$1,810.01	\$1,810.01	\$0.00	3/2/2018
+(2016 - 2017)	\$1,764.86	\$1,764.86	\$0.00	1/10/2017
+(2015 - 2016)	\$1,761.31	\$1,761.31	\$0.00	3/4/2016
+(2014 - 2015)	\$1,726.96	\$1,726.96	\$0.00	2/13/2015
+(2013 - 2014)	\$1,676.68	\$1,676.68	\$0.00	12/30/2013
+(2012 - 2013)	\$1,593.21	\$1,593.21	\$0.00	8/21/2012
+(2011 - 2012)	\$1,546.70	\$1,546.70	\$0.00	12/30/2011
+(2010 - 2011)	\$1,517.91	\$1,517.91	\$0.00	9/30/2010
+(2009 - 2010)	\$1,473.77	\$1,473.77	\$0.00	10/6/2009
+(2008 - 2009)	\$1,414.78	\$1,414.78	\$0.00	1/8/2009
+(2007 - 2008)	\$1,373.56	\$1,373.56	\$0.00	9/25/2007
+(2006 - 2007)	\$1,346.93	\$1,346.93	\$0.00	10/3/2006
+(2005 - 2006)	\$1,294.72	\$1,294.72	\$0.00	3/2/2006
+(2004 - 2005)	\$1,257.01	\$1,257.01	\$0.00	8/11/2004
+(2003 - 2004)	\$1,241.04	\$1,241.04	\$0.00	8/14/2003
+(2002 - 2003)	\$1,217.60	\$1,217.60	\$0.00	3/7/2003
+(2001 - 2002)	\$1,240.85	\$1,240.85	\$0.00	1/7/2002
+(2000 - 2001)	\$1,238.39	\$1,238.39	\$0.00	1/5/2001
+(1999 - 2000)	\$1,221.64	\$1,221.64	\$0.00	10/1/1999
+(1998 - 1999)	\$1,185.00	\$1,185.00	\$0.00	9/14/1998
+(1997 - 1998)	\$1,121.68	\$1,121.68	\$0.00	8/14/1997
+(1996 - 1997)	\$1,133.04	\$1,133.04	\$0.00	3/25/1997

[Collapse](#)

Related Names

CURRENT OWNER FOR 2021 (2021 - 2022)

Name	WENTZLAFF LIVING TRUST,
Mailing Address	H A & S V WENTZLAFF, TTEES 1449 SOUTH SUTRO TERR CARSON CITY, NV, 89706- 0000
Status Account	Current

Structure 1 of 2

Property Type	Description	Style	Total Floor Area	Year Built
RES	SINGLE FAMILY RES	70% One Story 30% Two Story	2,248	1979
Accommodations				
# of Stories	1.20	Mobile Home		
# of Bedrooms	3.00	DRS Length Style One	0.00	
# of Bathrooms	2.00	DRS Width Style One	0.00	
# of Bsmt Bedrooms	0.00	DRS Length Style Two	0.00	
# of Bsmt Bathrooms	0.00	DRS Width Style Two	0.00	
Roofing				
Concrete Tile	100 % of Total Floor Area	Exterior Walls		
Floor Cover				
Automatic Floor Cover Allowance		Frame, Stucco	100 % of Total Floor Area	
Plumbing Fixtures				
Plumbing Fixtures	9 Number of Fixtures	Heating/Cooling		
Subfloor				
Slab on Grade	% of Total Floor Area	Baseboard, Hot Water	100 % of Total Floor Area	
Raised Subfloor	% of Total Floor Area	Built-In Appliances		
Slab Porch with Roof	226 Porch Area	Automatic Appliance Allowance		
Porches, Decks, Breezeways				
Plumbing Rough-Ins				
Fireplaces				
Single 1-Story Fireplace				
Balconies				
Wood Balcony				
84 Balcony Area				

Structure 2 of 2					
Property Type	Description		Style	Total Floor Area	Year Built
RES	Outbuilding Structure 1		100% One Story	NA	NA
Miscellaneous			Categories		
ATT GARAGE STUCCO QUAL 1-4		440 Square Ft. Year Built: 1979	BLACKTOP-VERY VERY LARGE AREA 3000+ SF	3,000 Square Ft Year Built: 1979	
DET GARAGE MTL/VINYL SIDING QUAL 1-4		192 Square Ft. Year Built: 1996	CHAIN LINK FENCE-6'	150 Linear Ft. Year Built: 1979	
			FLATWORK- CONCRETE 3" (0- 999SF)	227 Square Ft. Year Built: 1979	
			GARAGE SEMI- FINISH	440 Square Ft. Year Built: 1979	
			PATIO COVER- LATTICE	252 Square Ft. Year Built: 2007	
			PLANTER-SLMP STN	80 Square Ft. Year Built: 1979	
			SPRINKLERS- RESIDENTIAL X 1 (+2000 SF)	1 Quantity Year Built: 1979	
			STEPS-CONCRETE	20 Linear Ft. Year Built: 1979	
			TYPICAL SEPTIC SYSTEM 1000 GAL	1 Quantity Year Built: 1979	
			WALL-CONC BLK 4"	484 Square Ft. Year Built: 1979	

Sales History						
DISCLAIMER: SOME DOCUMENTS MAY NOT BE SHOWN						
Year	Document #	Document Type	Sale Date	Sold By	Sold To	Price
2003	298171	RE- RECORDED DOCUMENT	5/15/2003	MARY COLLINGS	WENTZLAFF LIVING TRUST 10/8/02	\$260,000
1993	149169		9/3/1993		MARY COLLINGS	\$175,000

No Genealogy Information

No Taxing Entity Information

PROPOSAL QUESTIONNAIRE – APN 00868301

1. The proposed amendment is in substantial compliance with and supports the goals, policies and action programs of the Master Plan.

A. **CHAPTER 3: A BALANCED LAND USE PATTERN** – The proposed reflects actual Land Use since 1979 and maintains a diverse choice of housing for the community.

- a. Discourage growth outside areas planned to be served by community water and wastewater facilities as identified in the Water and Wastewater Master Plans (1.1b)?
 - I. Yes. No growth required.
- b. Promote infill and redevelopment in an identified priority area (1.2a)?
 - I. Not applicable
- c. At adjacent county boundaries, minimize potential land use conflicts with adjacent properties (1.5a)?
 - I. Not applicable. Property is not adjacent to any county boundaries.
- d. Adjacent to State or Federal lands, ensure compatibility with planned adjacent uses and access (1.5b)
 - I. Not applicable. Property is not adjacent to State or Federal lands.
- e. Located to be adequately served by city services including fire and sheriff services and coordinated with the School District to ensure the adequate provision of schools (1.5d)?
 - I. Yes. No Changes to existing city services and schools required. Single Family Residence land use has been accounted for since the single-family residence was built in 1979.
- f. Promote a citywide range of mixed-use, residential, commercial and employment uses at a variety of scales and intensities (2.1a)?
 - I. Yes. Maintains the Single-Family Residence Land Use since the single-family residence was built in 1979.
- g. In identified Mixed-Use areas, promote mixed-use development patterns as appropriate for the surrounding context consistent with the land use descriptions of the applicable Mixed-Use designation, and meet the intent of the Mixed-Use Evaluation Criteria (2.1b, 2.2b, 2.3b, Land Use Districts)?
 - I. Yes, the proposed corrects current zoning LI to the actual and tax assessed Land Use - Single-Family Residence by amending to SF1A.

- h. Discourage rezoning of properties that create “friction zones” between adjacent land uses, particularly industrial and residential uses (2.1d)?
 - I. From 1979 to the present there is no friction between the adjacent property to the west (APN 00848241, zoning SF1A, Master Plan SF1A). Proposed maintains the property land use with the historic land use that the adjacent property to the west is accustomed with.
 - II. property to the west is accustomed with.
 - III. From 1979 to present there is no friction between the adjacent properties to the south (two vacant lots, Zoning Public Regional - PR, Master Plan - Parks & Recreation).
 - IV. From 1987 to the present, there is no friction between the adjacent property to the east (APN 00868302, zoning LI/GI). See Attachment 1 – 1986 Court Decision Herman vs. Carson City and Norman Basset, for the history of adjoining properties APN 00868301 and 00868302.
- i. Encourage development outside the primary floodplain and away from geologic hazard areas (3.3d, e)?
 - I. APN 00868301/1449 South Sutro TE is not located in a primary floodplain and is away from geologic hazard areas. No development required.
- j. Provide for zoning consistent with the Land Use designation (Land Use table descriptions)?
 - I. Yes, the proposed changes the zoning to SF1A from LI to match the Single-Family Land Use designation. See the Carson City Parcel Details for APN 00868301.
- k. Meet the location criteria for the applicable Land Use designation Land Use descriptions)?
 - I. Yes, Single Family Residence at 1449 S. Sutro Te been used as a Single-Family residence since construction in 1979. Land Use Group: RES, Land Use: 200 – Single Family Residence. Reference Carson City Parcel Details for APN 00868301.
- l. If located within an identified Specific Plan Area (SPA), meet the applicable policies of that SPA (Land Use Map, Chapter 8)?
 - I. Not applicable. Property is not located in a SPA.

B. CHAPTER 4: EQUITABLE DISTRIBUTION OF RECREATIONAL OPPORTUNITIES – Not Applicable.

- a. The proposed re-zoning of APN 00868301 / 1449 S. Sutro Te to Single-Family Residence One Acre from Limited Industrial does not apply or impact parks, recreation opportunities, Open Space Master Plan, or the Carson River Master Plan.

C. CHAPTER 5: ECONOMIC VITALITY

- a. Help maintain and enhance the primary job base (5.1)?
 - I. Not Applicable. Project does not impact the primary job base.
- b. Encourage a citywide housing mix consistent with the labor force and non-labor force populations (5.1j)
 - I. Yes, the project maintains the Single-Family Residence Land use and the existing residence since construction in 1979.
- c. Encourage the development of regional retail centers (5.2a)
 - I. Not applicable. Proposed is a Single-Family Residence built in 1979.
- d. Encourage reuse or redevelopment of underused retail spaces (5.2b)?
 - I. Not applicable. Proposed is a Single-Family Residence built in 1979.
- e. Support heritage tourism activities, particularly those associated with historic resources, cultural institutions and the State Capitol (5.4a)?
 - I. Not applicable. Proposed is a Single-Family Residence built in 1979.
- f. Promote revitalization of the Downtown core (5.6a)?
 - I. Not applicable. Proposed is a Single-Family Residence built in 1979. The property is not near the Downtown core.
- g. Encourage the incorporation of additional housing in and around the Downtown (5.6c)?
 - I. Not applicable. Proposed is a Single-Family Residence built in 1979. The property is not near the Downtown core.

D. CHAPTER 6: LIVABLE NEIGHBORHOODS AND ACTIVITY CENTERS

- a. Promote compatibility with surrounding development for infill projects or adjacent to existing rural neighborhoods (6.2a, 9.3b 9.4a)?

- I. Yes. Proposed makes no changes to Single Family Land Use which has existed since the residence was built in 1979. Maintains the historic land use expected by adjacent properties and the surrounding neighborhood.
- b. If located in an identified Mixed-Use Activity Center or m area, provide for the appropriate mix, size and density of land uses consistent with the Mixed-Use district policies (7.1a, b)?
 - I. Not applicable. Proposed is not in a “m” area and maintains the Single-Family Residence Land Use that has existed since 1979 when the single-family residence was built.
- c. Encourage an appropriate mix of housing models and densities based upon the location, size, and surrounding neighborhood context (9.1a)?
 - I. Yes. The proposed maintains the existing Single-Family Residence Land Use since the construction of the residence in 1979. Proposed maintains the current appropriate mix of housing models based on the location, size, and surrounding neighborhood context. Proposed maintains a unique housing model with beautiful Nature Views. See Attachment 3 – MLS Listing
- d. Discourage “spot” rezoning of parcels within established rural neighborhoods that have not been identified as higher density on the Land Use Map or that are not contiguous with lots zoned for a comparable density (9.4b)?
 - I. Yes. Proposed is not a “spot” rezoning. Proposed is consistent with zoning of adjacent property to the west (SF1A). Proposed matches the Single-Family Land Use since the Single-Family residence was built in 1979.

- E. **CHAPTER 7: A CONNECTED CITY** – The proposed is supported by existing transportation infrastructure and has been so since the single-family residence was built in 1979.
 - a. Promote transit-supportive development patterns along major travel corridors to facilitate future transit (11.2b)?
 - I. Yes. No impact to current and future transit-supportive development patterns. Existing and future transit supported by current transportation infrastructure since the single-family residence was built in 1979.
 - b. Promote enhanced roadway connections and networks consistent with the transportation master plan (11.2c)?
 - I. Yes. Proposed has no impact to roadway connections and networks. Existing and future transit supported by current transportation infrastructure since the single-family residence was built in 1979.

- c. Provide for appropriate pathways through the development and to surrounding lands, including parks and public lands, consistent with the unified pathways Master Plan and the proposed use and density (12.1a, c)?
 - I. Yes. Proposed maintains the current pathways consistent with the Unified Pathways Master Plan since 1979.
- 2. **The proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**
 - A. Describe the land uses and zoning adjoining your property (for example: North: two houses, Single-Family One Acre zoning; East: restaurant, Retail Commercial zoning, etc.), and how your zoning will be compatible with those uses and not cause detrimental impacts.
 - a. **West:** one house, Single Family One Acre zoning; **East:** one commercial business, General Industrial / Limited Industrial zoning; **South:** two vacant lots, Public Regional zoning, Parks & Recreation Master Plan
 - b. How will the proposed amendment be compatible with these uses?
 - I. Maintains the Land Use expected by the adjacent properties and the surrounding neighborhood since the single-family residence was built in 1979.
 - c. Explain how the approval of this amendment will not have detrimental impacts?
 - I. No detrimental impacts. Proposed has been accounted for in the existing community infrastructure requirements for public health, safety, and welfare since the single-family residence was built in 1979.
 - B. Describe land use and zoning changes in the general vicinity which have occurred in the previous five-year period.
 - a. None
- 3. **The proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety, and welfare.**
 - A. The proposed Zoning amendment has no impact on existing or planned public services or facilities. The zoning amendment has no impact on public health, safety, and welfare for the area. The single-family residence at 1449 S. Sutro Te has been used as a Single-Family Residence since 1979. All existing public services and infrastructure have been used since 1979 with no impact.

4. That sufficient consideration has been exercised by the applicant in adapting the project to existing improvements in the area. Be sure to indicate the source of the information that you are providing (private engineer, development engineering, title report, or other sources). Describe how your proposed Zoning Map Amendment will not adversely impact drainage, sewer, water, traffic, schools, emergency services, roadways and other city services.

A. Is drainage adequate in the area to support the density that may occur with the rezoning? How will drainage be accommodated? How have you arrived at this conclusion?

a. Yes. Per phone conversation with Carson City Development and Engineering Office, Mr. Guillermo Munoz on May 26th, 2021. The proposed will have no impact on drainage. Single-Family Residence at 1449 S. Sutro Te utilizes existing infrastructure and has done so since construction in 1979.

B. Are the water supplies in the area of your project adequate to meet your needs without degrading supply and quality to others? Is there adequate water pressure? Are the lines in need of replacement? Talk to the Utilities Department for the required information.

a. Yes. Per phone conversation with Carson City Development and Engineering Office, Mr. Guillermo Munoz on May 26th, 2021. Existing Single-Family residence does not impact the current water supply and pressure requirements to others in the area and has not done so since construction in 1979. Existing waterlines meet current area and parcel land use.

C. Are roadways sufficient in the area to serve the density that may occur from the rezoning? How have you arrived at this conclusion?

a. Yes. Per phone conversation with Carson City Development and Engineering Office, Mr. Guillermo Munoz on May 26th, 2021. Roadways are sufficient in the area to serve the density with the zoning change. Existing roadway infrastructure has supported since 1979. There are no changes to density because Single-Family Residence land use has not changed since the single-family residence was built in 1979.

D. Will the school district be able to serve the student population that may occur from the rezoning? How have you arrived at this conclusion?

a. Yes. The school district will be able to serve the student population that may occur from the rezoning. The Single-Family Residence land use of 1449 S. Sutro Te has not changed since the single-family residence was built in 1979.

E. Are adequate means of access available for emergency vehicles to serve the site? What is the approximate response time for emergency vehicles? If your application is approved to rezone the property, will additional means of access be required for increased density? Or will existing access ways be adequate? How have you arrived at this conclusion?

a. Yes. There are adequate means of access for emergency vehicles. No additional means of access are required because density remains the same for the Single-Family Residence Land Use of APN 00868301 since the single-family residence was built in 1979.

I Certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Sharon Wentzlaaff
Applicant

SHARON WENTZLAFF
Print Name

June 14, 2021
Date

PROJECT IMPACT REPORTS – APN 00868301

Not applicable. The applicant contacted the Carson City Development and Engineering Office and spoke to Mr. Guillermo Munoz on May 26th, 2021. He stated, because land use of APN 00868301/1449 S. Sutro TE remains the same, there would be no impacts to the area, thus no reports required. The proposed Zoning amendment reflects the actual land use since the single-family residence was built in 1979. This will not impact existing improvements in the area nor any existing infrastructure.

Carson City Planning Division
108 E. Proctor Street • Carson City NV 89701
Phone: (775) 887-2180 • E-mail: planning@carson.org

FOR OFFICE USE ONLY:

CCMC 18.02.070

MASTER PLAN AMENDMENT

FEE*: \$3,050.00 + noticing fee
*Due after application is deemed complete by staff

SUBMITTAL PACKET – 4 Complete Packets (1 Unbound Original and 3 copies) including:

- Application Form
- Written Project Description
- Site Plan
- Master Plan Amendment Findings
- Applicant's Acknowledgment Statement
- Master Plan Policy Checklist
- Documentation of Taxes Paid-to-Date
- Project Impact Reports (Engineering)

CD or USB DRIVE with complete application in PDF

Application Reviewed and Received By:

Submittal Deadline: Planning Commission application submittal schedule. Master Plan Amendment applications are only accepted four times per year and must be submitted by the January, April, July and October deadline dates.

Note: Submittals must be of sufficient clarity and detail for all departments to adequately review the request. Additional information may be required.

FILE #	
APPLICANT Sharon Wentzlaff	PHONE # 775-841-6768
MAILING ADDRESS, CITY, STATE, ZIP 1449 S. SUTRO TE, Carson City, NV, 89706	
EMAIL ADDRESS 1sw8111@yahoo.com	
PROPERTY OWNER Wentzlaff Living Trust	PHONE # 775-841-6768
MAILING ADDRESS, CITY, STATE, ZIP 1449 S. SUTRO TE, Carson City, NV, 89706	
EMAIL ADDRESS 1sw8111@yahoo.com	
APPLICANT AGENT/REPRESENTATIVE Todd Wentzlaff	PHONE # 832-797-1094
MAILING ADDRESS, CITY, STATE, ZIP 10602 Manor Dr, Magnolia, TX, 77354	
EMAIL ADDRESS hwentzlaff@gmail.com	

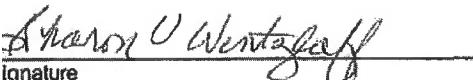
Project's Assessor Parcel Number(s): 00868301	Street Address 1449 S. Sutro TE, Carson City, NV, 89706	
Project's Master Plan Designation Industrial	Project's Current Zoning Limited Industrial - LI	Nearest Major Cross Street(s) S. SUTRO TE / GONI RD

Briefly describe your proposed project and the amendment to the master plan that is being requested. In addition to the brief description below, provide additional pages to show a more detailed overview of your project and proposal.

Amend Master Plan and Zoning Map for APN 00868301 to SF1A from LI to reflect actual land use since 1979

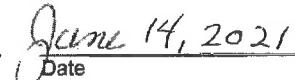
PROPERTY OWNER'S AFFIDAVIT

Sharon V. Wentzlaff / Wentzlaff Living Trust, being duly deposed, do hereby affirm that I am the record owner of the subject property, and that I have knowledge of, and I agree to, the filing of this application.


Signature

1449 S. SUTRO TE, Carson City, NV 89706

Address

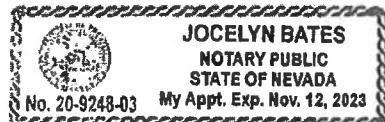

Date

se additional page(s) if necessary for other names.

STATE OF NEVADA
COUNTY

In June 14, 2021, Sharon V. Wentzlaff, personally appeared before me, a notary public, personally known (or proved) to me to be the person whose name is subscribed to the foregoing document and who acknowledged to me that he/she executed the foregoing document.


Notary Public



OTE: If your project is located within the Historic District or airport area, it may need to be scheduled before the Historic Resources Commission or the Airport Authority. In addition to being scheduled for review by the Planning Commission, Planning staff can help you make this determination.

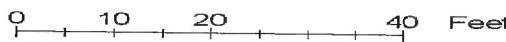
MASTER PLAN AMENDMENT CHECKLIST

Each application must contain the following:

1. Written Project Description
2. Master Plan Amendment Fidings
3. Master Plan Policy Checklist
4. Documentation of Taxes Paid-to-Date
5. Project Impact Reports – Provide documentation regarding project impacts related to traffic, drainage, water, and sewer, including supportive calculations and/or reports per the Carson City Development Standards Divisions 12, 14 and 15. Contact Development Engineering to determine if these are necessary for your project at (775) 887-2300.
6. A Site Plan as outlined below.

A site plan must contain the following information:

The site plan shall be drawn on quality paper (minimum size of 8.5 inches by 11 inches) at an appropriate scale or dimension to depict the parcel. Any site plan larger than 8.5 inches by 11 inches must be folded. The site plan shall include the following information:

1. Show a north point arrow and site plan scale. A bar scale is preferred because when the drawings are reduced, it will still show an accurate scale. A bar scale could appear like this for a project that has a scale of one inch equals twenty feet on the original site plan:

2. Vicinity map must be shown on the site plan. This is a map, not to scale, that you would provide a visitor unfamiliar with the area as directions to get to your property. It will show adjacent streets.
3. Title block in lower right-hand corner including:
 - (a) Applicant's name, mailing address, and daytime phone number (including area code).
 - (b) The name, mailing address, and daytime phone number of the person preparing the site plan, if different from applicant.
 - (c) The name, mailing address, and daytime phone number of the record owner of the subject property, if different from applicant.
 - (d) Assessor Parcel Number(s) (APN) and address (location, if no address) of the subject property.
 - (e) Project title and permit request. (Example: Master Plan Amendment).
4. Property lines of the subject property with dimensions indicated.
5. Show the existing and proposed Master Plan land use designations of the subject property and the adjoining parcels.
6. Show the existing and proposed Zoning Districts of the subject property and the adjoining parcels.
7. Show the Assessor Parcel Number(s) of the subject property and adjoining parcels.

MASTER PLAN AMENDMENT APPLICATION FINDINGS

State law requires that the Planning Commission consider and support the statements below with facts in the record. These are called "FINDINGS". Since staff's recommendation is based on the adequacy of your findings, you need to complete and attach the required findings with as much detail as possible to ensure that there is adequate information supporting your amendment request.

THE FINDINGS BELOW ARE PROVIDED IN THE EXACT LANGUAGE FOUND IN THE CARSON CITY MUNICIPAL CODE (CCMC), FOLLOWED BY EXPLANATIONS TO GUIDE YOU IN YOUR RESPONSE. ON A SEPARATE SHEET TO BE INCLUDED WITH YOUR COMPLETE APPLICATION, LIST EACH FINDING AND PROVIDE A RESPONSE IN YOUR OWN WORDS. ANSWER THE QUESTIONS AS COMPLETELY AS POSSIBEL TO PROVIDE THE PLANNING COMMISSION WITH THE DETAILS NECESSARY TO CONSIDER YOUR REQUEST.

CCMC 18.02.070(10) COMMISSION FINDINGS. When forwarding its decision to the Board for adoption of the amendment, the Commission shall, at a minimum, make the following findings of fact:

- a. Consistency with Master Plan. The proposed amendment is in substantial compliance with the goals, policies and action programs of the Master Plan.**

Explanation: Please review the Goals and Policies listed in the Master Plan Policy Checklist at the back of this packet. Choose as many of the Goals and their accompanying Policies that you can find to support your request for a Master Plan Amendment. After listing each one, state in your own words how your request meets each listed Goal and Policy. For additional guidance, please refer to the Carson City Master Plan document on our website at www.carson.org/planning or you may contact the Planning Division to review the document in our office or request a copy.

- b. Compatible Land Uses. The proposed amendment will provide for land uses compatible with existing adjacent land uses, and will not adversely impact the public health, safety or welfare.**

Explanation: Describe the existing land uses and Master Plan land use designations of the adjacent properties. How will the proposed amendment be compatible with these uses? Explain how the approval of this amendment will not have an adverse impact on the public health, safety or welfare.

- c. Response to Change Conditions. The proposed amendment addresses changed conditions that have occurred since the plan was adopted by the Board and the requested amendment represents a more desirable utilization of land.**

Explanation: Has there been a change in conditions in the area of your property since the Master Plan was adopted by the Board? How will the proposed amendment to the Master Plan address a more desirable utilization of the land as a result of this change in conditions?

- d. Desired Pattern of Growth. The proposed amendment will promote the desired pattern for the orderly physical growth of the City and guides development of the City based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.**

Explanation: Explain how your proposed amendment to the Master Plan will promote the desired pattern for orderly physical growth in the City. How will it allow for the efficient expenditure of funds for public services? Explain how the amendment will provide for the least amount of natural resource impairment.

PROJECT DESCRIPTION

Proposal: Amend the Carson City Master Plan and Zoning Map for APN 00868301 / 1449 South Sutro TE to SINGLE FAMILY ONE ACRE (SF1A) from LIMITED INDUSTRIAL (LI)

Summary/Background:

The retired owners of the single-family residence at 1449 South Sutro TE placed the property up for sale in May 2021 and have a signed purchase agreement for the list price of \$599,900. However, the sale is on hold as the Buyers' lender will not provide financing for the single-family residence built on a land parcel zoned LI due to reconstruction concerns in the event of damage/destruction of the residence. The zoning and land use history of this parcel is described in attached *Herman v. Carson City Court* decision. The single-family residence was *built in 1979* on this parcel while zoned LI and has sold three times without problems until now. The proposed allows the sale to finalize, maximizing the value to all stakeholders. Additionally, the proposed synchronizes the Master Plan and Zoning Map with the actual Land Use that has existed since the single-family residence was *built in 1979* with no impact to the surrounding properties, neighborhood, or Carson City infrastructure.

The proposed maximizes the value of the property to all Stake Holders by the following:

1. Carson City gains \$5,500 in application fees, approximately \$3,146 annually in additional property tax revenue based on the 1449 South Sutro TE purchase agreement sales price, and additional annual property tax revenue based on the purchase price of the other Carson City property.
2. The retired, 78-year-old, applicant/owner gains the sale of the single-family residence for the list price of \$599,900 and completes the purchase of another Carson City property. The applicant is downsizing residence due to age. *On 19 May 2021 the co-owner, Henry Wentzlaff, died* after the signed purchase agreements for 1449 South Sutro TE and the other property occurred. The death of her husband further increased the requirement to downsize to a smaller property and ensure financial security.
3. The buyer gains the desired single-family residence. The buyer's lender provides the required financing as reconstruction concerns are mitigated.

The Proposed has no impact to the adjacent properties, surrounding neighborhood, or Carson City public infrastructure. The proposed maintains the expected and supported land use of the *past 42 years*. The adjacent property to the west contains a single-family residence and is zoned SF1A. The adjacent property to the east contains a commercial structure built in 1984 and is zoned LI. The adjacent properties to the south are vacant lots zoned "Public Regional" and Master Plan designation "Parks and Recreation". The friction that existed with the east adjoining property and Carson City was resolved in the attached 1986 Lawsuit *HERMAN v. CARSON CITY*.

Note: the property tax annual increase for 1449 S. Sutro TE was estimated using the Nevada Property Tax Guide, <https://www.carson.org/government/departments-g-z/treasurer/property-taxes>, new Taxable value and Assessed value (\$599,900 / \$209,965) based on purchase price, and new taxes due based on the tax rate derived from 2020/21 taxes paid.

Herman, Robert & Mylie Z-75-1 7/75

1449 S Sutro Terrace 008-681-7 m-1 to A-1

Z-75-1

CARSON CITY COMMUNITY
DEVELOPMENT DEPARTMENT
CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL
RECEIVED

AM 9:12
100 NOV 25
BY SENT DR

November 20, 1986

Mr. Lynn Hamilton
Carson City Manager
2621 Northgate Lane
Carson City, Nevada

Re: Herman v. Carson City

Dear Lynn:

Attached please find copies of the district court's November 19, 1986 decisions granting summary judgment for defendant Carson City in the above-entitled case.

This lawsuit involves allegations by the plaintiffs Robert and Mylie Herman that defendant Carson City improperly rezoned their property in 1978 and 1979 and failed to enforce a fifty foot side yard setback in 1984 when Carson City issued a building permit to Norman Bassett for the construction of a \$326,000 commercial structure (Bestways Magazine) on the lot line of a parcel located adjacent to the Herman property. The Hermans filed their lawsuit in August of 1985 and sought in the alternative to have either the Bassett building dismantled and moved to the east fifty feet by Carson City or for money damages based on theories of negligence, nuisance, civil rights and trespass.

The attached decisions by Judge Griffin deny as a matter of law the Hermans' ability to obtain a mandatory injunction compelling the dismantling and moving of the Bassett building. Judge Griffin's second order dismisses all theories of negligence, nuisance, civil rights and trespass as to defendant Carson City save and except whether John Hoole abused his discretion when he waived a ten foot side yard setback pursuant to CCMC 18.06.194. This ordinance provided that such ten foot side yard setback could be waived. The present ordinance requires no such setback and in fact mandates its waiver.

Lynn Hamilton
November 20, 1986
Page Two

The remaining issue as to Hoole's waiver will go to trial on January 13, 1987 for a four day jury trial unless the Hermans decide to appeal the attached decisions to the Nevada Supreme Court. It is my opinion that the Hermans will seek a stay of the judge's attached decisions and appeal to the Nevada Supreme Court.

Please provide this letter and the attached information to the supervisors as Stan Hansen was one of the named defendants in this case. If you have any questions regarding this case or the attached decisions of Judge Griffin, please feel free to call.

NOEL S. WATERS
DISTRICT ATTORNEY

By 

Charles P. Cockerill
Chief Deputy District Attorney

CPC/d

Attachments

cc: Walt Sullivan w/attachments
Glen Finnell w/attachments
John Hoole w/attachments
Noel Waters w/attachments

1 CASE NO. 85-01301A

2 DEPT. NO. I

86 NOV 19 P3:17

STL
BY 11/20/1986

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

8 * * *

9 ROBERT F. HERMAN
and MYLIE HERMAN,

10 Plaintiffs,

11 vs.

12 CARSON CITY, a political
13 subdivision of the State
14 of Nevada and NORMAN BASSETT.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND PARTIAL SUMMARY
JUDGMENT

15 Defendants.

16 This matter came before this Court on October 7, 1986 for
17 a hearing on Plaintiffs' Motion for Summary Judgment filed May 27, 1986,
18 Defendant CARSON CITY's Cross-Motion for Summary Judgment filed June 25,
19 1986 which has been joined by Defendant NORMAN BASSETT and Defendant
20 NORMAN BASSETT's Motion for Summary Judgment filed September 24, 1986.
21 Defendant CARSON CITY was represented by CHARLES P. COCKERILL, Chief
22 Deputy District Attorney and ROBERT L. AUER, Deputy District Attorney.

23 The Plaintiffs were present in Court and represented by ROBERT C.
24 HERMAN, ESQ. Defendant NORMAN BASSETT was represented by ANDREW
25 MACKENZIE, ESQ.

26 This Court will decide by separate order the motion and
27 cross-motion for summary judgment as to the First Claim for Relief
28 (Injunction) and the Eighth Claim for Relief (Trespass) of Plaintiffs'

1 First Amended Complaint.

2 This Court has received and considered the points and
3 authorities in support and opposition of the motion and cross-motion for
4 summary judgment, arguments, affidavits, exhibits admitted in evidence,
5 depositions received in evidence, testimony of Walter Sullivan and the
6 oral decision of this court and hereby makes the following Findings of
7 Fact, Conclusions of Law and Judgment with respect to the Second through
8 Seventh Claims for Relief of Plaintiffs' First Amended Complaint.

9 GENERAL

10 This lawsuit involves allegations by the Plaintiffs ROBERT and
11 MYLIE HERMAN (hereinafter the HERMANS) that Defendant CARSON CITY
12 improperly rezoned their property in 1978 and failed to enforce a fifty
13 foot (50') side yard setback requirement in 1984 when it issued a
14 building permit to NORMAN BASSETT (hereinafter BASSETT) for the
15 construction of a commercial structure (Bestways Magazine) on the lot
16 line of a parcel located adjacent to the HERMAN property. It is
17 admitted by the HERMANS that BASSETT's parcel is properly zoned for a
18 light commercial building. The HERMANS seek in the alternative to have
19 the BASSETT building moved to the east or money damages based on
20 theories of negligence, nuisance, civil rights and trespass.

21 FINDINGS OF FACT

22 1. Plaintiffs ROBERT and MYLIE HERMAN are, and at all times
23 pertinent herein, were residents of Carson City, Nevada and the owners
24 of real property located at 1449 S. Sutro Terrace, Carson City, Nevada
25 (APN 8-681-7).

26 2. Defendant CARSON CITY is a political subdivision of the
27 State of Nevada and at all times pertinent herein was responsible for
28 enacting and administering ordinances establishing land use (zoning)

1 districts within the boundaries of Carson City, Nevada.

2 3. Defendant NORMAN BASSETT is, and at all times pertinent
3 herein was, a resident of Carson City, Nevada and is the owner of real
4 property located at 1501 S. Sutro Terrace, Carson City, Nevada (APN
5 8-681-8) which property adjoins and is located immediately to the east
6 of the above-described property owned by Plaintiffs.

7 4. The HERMAN parcel was rezoned from M-1 (Industrial)
8 zoning to A-1 (Residential One Acre) zoning in August, 1975.

9 5. In 1976 CARSON CITY initiated a comprehensive rezoning of
10 all real property in Carson City. Public hearings for the comprehensive
11 rezoning were held before the Carson City Regional Planning Commission.
12 The Board of Supervisors held public hearings on the proposed
13 comprehensive rezoning including the new ordinance and map on March 23,
14 April 6 and 13, 1978. The new zoning map was incorporated by reference
15 in Carson City in Ordinance No. 1978-8 pursuant to Carson City Municipal
16 Code (hereinafter CCMC) 18.04.030 and was placed on display in the
17 office of the Planning Director.

18 6. Notice of the April 14, 1977 Planning Commission meeting
19 was sent out to all Carson City property owners on March 29, 1977. The
20 mailing list for this notice was based on the 1976 Carson City
21 Assessment Roll. On this Assessment Roll the HERMANS were listed twice:
22 1309 Sharon Drive and APN 8-681-7 on South Sutro Terrace. The mailing
23 address for both properties was 1309 Sharon Drive, Carson City, Nevada.
24 Several notices were returned, but not the HERMANS' notices. This
25 Notice was also published in the Nevada Appeal on March 30, 1977 and
26 April 6, 10, 13, 1977.

27 7. On April 13, 1978 the Carson City Board of Supervisors
28 enacted a new zoning ordinance and new zoning map (Ordinance No. 1978-8)

1 which repealed all zoning in Carson City and enacted new zoning
2 classifications for all of Carson City and specifically changed the
3 zoning of the HERMAN parcel from agricultural one acre to general
4 industrial zoning and the BASSETT parcel from industrial to general
5 industrial zoning. The original new zoning map incorporated by
6 reference in Ordinance No. 1978-8 was received in evidence at the
7 hearing on this matter.

8 8. On July 7, 1978 the Carson City Board of Supervisors
9 changed the zoning on the BASSETT property from general industrial to
10 limited industrial.

11 9. In January, 1979 the HERMANS commenced construction of a
12 residence on their South Sutro Terrace parcel with a fifty-four foot (54
13 ft.) setback from their east property line (common property line with
14 BASSETT parcel). At this time the HERMANS were informed by the building
15 contractor that their property was zoned industrial.

16 10. On February 2, 1979 the Carson City Board of Supervisors
17 changed the zoning of the HERMAN property from general industrial to
18 limited industrial and the east portion of the BASSETT parcel from
19 limited industrial to general industrial. The result was that limited
20 industrial zoned property (HERMAN parcel) abutted limited industrial
21 zoned property (west portion of BASSETT parcel).

22 11. In June, 1984 BASSETT applied for a building permit to
23 build a light commercial structure on his property that was appropriate
24 for limited industrial zoning. BASSETT's plan showed the proposed
25 building to be located on the west lot line of his parcel with no side
26 yard setback. At this time, CCMC 18.06.194 imposed a waiveable ten foot
27 (10 ft.) side yard setback between limited industrial properties. In
28 September, 1984 then Community Development Director John Hoole waived

1 the west side yard setback for the BASSETT property pursuant to CCMC
2 18.02.051 and CCMC 18.06.194. The building permit for the BASSETT
3 property was issued on September 14, 1984 and construction commenced. A
4 portion of BASSETT's building was constructed on the common property
5 line shared by the HERMANS.

6 12. The HERMANS never challenged the April, 1978, July, 1978
7 or February, 1979 zone changes until they filed this action on August
8 16, 1985.

9 13. The HERMANS never appealed then Community Development
10 Director JOHN HOOLE's September, 1984 discretionary decision waiving
11 BASSETT's side yard setback pursuant to CCMC 18.02.058.

12 14. The HERMANS received actual and constructive notice of
13 the April, 1978 comprehensive rezoning, the July, 1978 rezoning of the
14 BASSETT parcel and the February, 1979 rezoning of the HERMAN and BASSETT
15 parcels.

16 CONCLUSIONS OF LAW

17 1. This Court has, pursuant to N.R.C.P. 56, reviewed the
18 evidence in a light most favorable to the nonmoving party and has given
19 that party the benefit of all favorable inferences that may be drawn
20 from the admissible subsidiary facts. This Court expressly finds that
21 so far as the Second through Seventh Claims for Relief of Plaintiffs'
22 First Amended Complaint are concerned the only disputed material fact
23 based on the admissible evidence is whether former Planning Director
24 John Hoole acted properly when he waived the ten foot (10 ft.) side yard
25 setback for Defendant NORMAN BASSETT in September, 1984.

26 2. In April, 1978 CARSON CITY completed a comprehensive
27 rezoning of all property in Carson City with the lawful enactment of
28 Ordinance No. 1978-8.

1 3. Legal notice for the above comprehensive rezoning was
2 provided to the Plaintiffs. This Court finds expressly that the notice
3 to every individual landowner in Carson City, as well as the publication
4 of that notice, is sufficient under Nevada Law and the Nevada and United
5 States Constitution, when a comprehensive city-wide rezoning occurs.

6 4. Ordinance No. 1978-8 is clothed with a presumption of
7 validity and the HERMANS have failed to overcome this presumption. See
8 Coronet Homes, Inc. v. McKenzie, 84 Nev. 250, 256 (1968). All legal
9 requirements contained in NRS Chapters 244 and 278 and CCMC Title 18 and
10 the Carson City Charter for the enactment of Ordinance No. 1978-8 were
11 fully complied with. The new master zoning map was properly
12 incorporated by reference in Ordinance No. 1978-8 and as a result of
13 this comprehensive rezoning the HERMAN and BASSETT parcels were zoned
14 general industrial.

15 5. The July, 1978 zone change for the BASSETT parcel to
16 limited industrial and February, 1979 zone change of the HERMAN parcel to
17 limited industrial complied with all legal requirements of Carson City,
18 Nevada and Federal Law.

19 6. The Plaintiffs have not been deprived of any federally
20 protected constitutional rights by CARSON CITY's zoning actions in this
21 action and therefore the sixth and seventh claims for relief are barred.

22 7. The HERMANS' Sixth Claim for Relief alleges a deprivation
23 of Federal Civil Rights based on allegedly unconstitutional notice.
24 This Court expressly finds that all notice challenged in this claim was
25 constitutionally satisfactory and on this basis this claim is dismissed.

26 8. The HERMANS' seventh claim for relief alleges a 42 U.S.C.
27 §1983 cause of action that is based on allegations of mere negligence or
28 lack of due care by CARSON CITY or one of its public offices and is

1 therefore barred by Daniels v. Williams, 106 S.Ct. 668 (1986) and
2 Davidson v. Cannon, 106 S.Ct. 662 (1986).

3 9. As to the Seventh Claim for Relief the Plaintiffs have
4 failed to allege or prove an unconstitutional custom or policy of
5 Defendant CARSON CITY which has harmed the HERMANS.

6 10. In September, 1984 CCMC 18.06.194 imposed a waiveable ten
7 foot (10 ft.) side yard setback between limited industrial zoned
8 properties.

9 JUDGMENT

10 Based on the foregoing, Defendant CARSON CITY's and NORMAN
11 BASSETT's Cross-Motion for Summary Judgment is granted, denied or
12 submitted as follows:

13 CLAIMS FOR RELIEF:

14 1. Injunction: This matter is decided by separate order of
15 this court.

16 2. Declaratory Relief: Summary Judgment is granted in favor
17 of Defendants CARSON CITY and NORMAN BASSETT as to this
18 claim for relief as follows: In September 1984 the
19 relevant portions of the HERMAN and BASSETT parcels were
20 zoned limited industrial and at that time CCMC 18.06.194
21 imposed a waiveable ten foot (10 ft.) side yard setback
22 between limited industrial zoned properties.

23 3. Negligence: Summary Judgement is granted in favor of
24 Defendants CARSON CITY and NORMAN BASSETT as to this
25 claim for relief with the exception of whether then
26 Community Development Director JOHN HOOLE's decision to
27 waive the ten foot (10ft.) side yard setback was proper
28 or negligent resulting in damage to Plaintiffs.

1 4. Nuisance (Injunction): Since this Claim for Relief
2 requests an Injunction to enforce a fifty foot (50 ft.)
3 side yard setback and since this Court has already
4 declared that the relevant properties were zoned limited
5 industrial in September, 1984, thus requiring only a ten
6 foot (10 ft.) waiveable side yard setback and since CCMC
7 18.06.194 has been amended to presently require no side
8 yard setback under the circumstances presented in this
9 case, there can be no continuing violation and therefore
10 no nuisance and thus this claim is moot. Summary
11 Judgment is granted in favor of Defendants CARSON CITY
12 and NORMAN BASSETT as to this claim for relief.

13 5. Nuisance (Damages): Summary Judgment is granted in favor
14 of Defendants CARSON CITY and NORMAN BASSETT as to this
15 claim for relief with the exception of whether then
16 Community Development Director JOHN HOOLE's decision to
17 waive the ten foot (10 ft.) side yard setback was proper
18 or negligent resulting in damage to Plaintiffs.

19 6. Civil Rights: Summary Judgment is granted in favor of
20 Defendant CARSON CITY as to this claim for relief because
21 all notice was constitutionally sufficient and because
22 the Plaintiffs have not been deprived of any federally
23 protected constitutional rights by CARSON CITY's zoning
24 actions in this action.

25 7. Civil Rights: Summary Judgment is granted in favor of
26 Defendant CARSON CITY as to this claim for relief because
27 alleged negligence cannot be a basis for 42 U.S.C. § 1983
28 liability. Further, no unconstitutional custom or policy

1 of Defendant CARSON CITY has been proved which has harmed
2 the HERMANS.

3. Trespass: As to Defendant BASSETT this matter is
4 submitted for decision after Plaintiffs file
5 additional evidence and Defendant BASSETT replies
6 thereto. As to Defendant CARSON CITY, Summary Judgment
7 is granted in favor of Defendant CARSON CITY pursuant to
8 the oral stipulation of counsel for Plaintiffs at the
9 hearing on this matter that CARSON CITY was erroneously
10 included in this claim for relief.

11 Each party shall bear his own attorneys fees and costs.

12 DATED this 19 day of November, 1986.

13
14 *Michael R. Shull*
15

16 DISTRICT JUDGE
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1 CASE NO. 85-01301A

2 DEPT. NO. I

3 86 NOV 19 P.M.19

4
5 BY D. TIGHE

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

8 * * *

9 ROBERT F. HERMAN
and MYLIE HERMAN,

10 Plaintiffs,

11 vs.

12 CARSON CITY, a political
13 subdivision of the State
14 of Nevada and NORMAN BASSETT.

15 Defendants..
16 FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND SUMMARY JUDGMENT
ON FIRST CLAIM FOR
RELIEF - INJUNCTION

17 This matter came before this Court on October 7, 1986 for a
18 hearing on Plaintiffs' Motion for Summary Judgment filed May 27, 1986,
19 Defendant CARSON CITY's Cross-Motion for Summary Judgment filed June 25,
20 1986 which has been joined by Defendant NORMAN BASSETT and Defendant
21 NORMAN BASSETT's Motion for Summary Judgment filed September 24, 1986.
22 Defendant CARSON CITY was represented by CHARLES P. COCKERILL, Chief
23 Deputy District Attorney and ROBERT L. AUER, Deputy District Attorney.
24 The Plaintiffs were present in Court and represented by ROBERT C. HERMAN,
25 ESQ. Defendant NORMAN BASSETT was represented by ANDREW MACKENZIE, ESQ.

26 This Court incorporates by this reference all Findings of Fact,
27 Conclusions of Law and Partial Summary Judgment rendered in this case with
28 respect to the Second through Seventh Claims for Relief of Plaintiffs' First
Amended Complaint.

1 These Findings of Fact, Conclusions of Law and Summary Judgment
2 relate solely to the First Claim for Relief - Injunction of the HERMANS'
3 First Amended Complaint. This Court has received and considered the points
4 and authorities in support and opposition of the motion and cross-motion for
5 summary judgment on the issue of injunction, arguments, affidavits, exhibits
6 admitted in evidence, depositions received in evidence, testimony of Walter
7 Sullivan and hereby makes the following Findings of Fact, Conclusions of Law
8 and Judgment with respect to the First Claim for Relief - Injunction of
9 Plaintiffs' First Amended Complaint.

GENERAL

11 In their First Claim for Relief the HERMANS seek a mandatory
12 injunction requiring Defendants CARSON CITY and NORMAN BASSETT to dismantle
13 and move the Bestways Magazine building to the east fifty (50) feet from the
14 common side yard property line. Defendants have filed a cross-motion for
15 summary judgment on the issue of whether a mandatory injunction should
16 issue.

17 A mandatory injunction compelling the alteration, destruction or
18 removal of property should be granted with extreme caution and should not be
19 granted unless serious injury is being inflicted on the party seeking
20 relief. See Motor Lodges, Inc. v. Willingham, 509 P.2d 901, 903 (Okla.
21 1972). The granting or withholding of such an injunction lies with the
22 Court's legal discretion. See Thorn v. Sweeney, 12 Nev. 251, 260 (1877).

23 In order to determine whether injunctive relief is appropriate
24 this Court must:

1. Decide if the party seeking relief has suffered irreparable
injury; and

27 2. Decide if there is an adequate remedy at law which would make
28 injunctive relief unnecessary. See *Thorn v. Sweeney*, *supra* at 256.

Other factors to be considered by the Court are:

- "a. The character of the interest to be protected;
- b. The plaintiffs delay, if any, in bringing suit;
- c. The misconduct of plaintiff, if any;
- d. The relative hardship likely to result to defendant if an injunction is granted and to the plaintiff if it is denied;
- e. The interest of third persons and of the public; and
- f. The practicality of framing and enforcing the Order or Judgment." See Lenhoff v. Birch Bay Real Estate, Inc., 587 P.2d 1087, 1091 (Wash. App. 1978).

FINDINGS OF FACT

1. By this reference this Court hereby incorporates the Findings of Fact in its previous order granting partial summary judgment in this matter.

2. The HERMANS were advised in January, 1979 by their building contractor, ROGER FOLEY, that their South Sutro Terrace property (APN 8-681-7) was zoned industrial. MR. FOLEY learned this fact when he applied for the HERMANS' residential building permit.

3. When Defendant BASSETT began construction of his light industrial building in September, 1984, MR. HERMAN personally observed the BASSETT contractor staking the future location of the BASSETT building on his lot line, the excavation for the building and allowed the concrete contractor to come onto the HERMAN property to pour the concrete foundation on the HERMAN lot line.

4. In September, 1984, MR. HERMAN went to the Community Development Department and was advised by Administrative Assistant DONNA ANDERSON that then Community Development Director JOHN HOOLE had waived the east side yard setback for Defendant BASSETT since limited industrial zoned property (HERMAN) abutted limited industrial zoned property (BASSETT). MR. HERMAN learned this fact prior to BASSETT's building permit being issued on

1 September 14, 1984.

2 5. The HERMANS never sought an administrative appeal of HOOLE's
3 September, 1984 waiver of the side yard setback as is allowed by Carson City
4 Municipal Code (hereinafter CCMC) 18.02.058.

5 6. Construction of the BASSETT building was completed at a cost
6 of approximately Three Hundred Twenty-Six Thousand Dollars (\$326,000). The
7 Certificate of Occupancy was issued April 24, 1985.

8 7. The HERMANS own appraiser, BRAD LENCIOMI, estimated fair
9 market value of the HERMAN property and residence to be One Hundred
10 Thirty-Five Thousand Dollars (\$135,000) in May, 1985. This appraisal was
11 performed after the BASSETT building was completed and occupied. Herman
12 Answer to First Set of Interrogatories, No. 4.

13 8. In addition, after the BASSETT building was completed and
14 occupied the HERMANS received two written offers in 1986 to purchase their
15 South Sutro Terrace property and residence: 1) Offer Number One - \$100,000;
16 2) Offer Number Two - \$135,000. The first offer was rejected and the
17 second offer was accepted by the HERMANS.

18 9. The Carson City Board of Supervisors amended CCMC 18.06.194
19 to presently require waiver of the side yard setback between limited
20 industrial zoned properties.

21 10. The HERMANS filed this action on August 16, 1985.

CONCLUSIONS OF LAW

23 1. The Parties have filed cross motions for summary judgment on
24 the issue of mandatory injunction. This Court has, pursuant to N.R.C.P. 56,
25 reviewed the evidence in a light most favorable to the nonmoving party and
26 has given that party all favorable inferences that may be drawn from the
27 admissible subsidiary facts. Because the admissible material facts and law
28 regarding the propriety of injunctive relief are not in dispute, resolution

1 of a mandatory injunction through the medium of summary judgment is
2 appropriate. See Smith v. City of Las Vegas, 80 Nev. 220, 391 P.2d 505
3 (1964). By this reference this Court hereby incorporates the Findings of
4 Fact, Conclusions of Law and Partial Summary Judgment in its previous order
5 in this matter.

6 2. In order to seek a mandatory injunction, the HERMANS must
7 demonstrate that the side yard setback they seek to enforce is still
8 required by law. Compare Radach v. Gunderson, 695 P.2d 128, 133 (Wash. App.
9 18.06.194). The HERMAN parcel and the west portion of the BASSETT parcel are
10 presently zoned limited industrial and pursuant to the present CCMC
11 18.06.194 "the side yard setback shall be waived" between limited industrial
12 zoned properties. Therefore, there can be no continuing violation and even
13 if this Court were to assume for the sake of argument that the construction
14 of the building in 1984 was in violation of CCMC 18.06.194
15 this building could presently be built on the HERMANS' lot line with no
16 setback under the current municipal code. Since there is no continuing
17 violation, the HERMANS cannot show irreparable injury. It is a fundamental
18 principle of law that injunctive relief is not available in the absence of
19 actual or threatened injury, loss or damage. See NRCP 65; see also Berryman
20 v. Int'l. Bhd. of Elec. Workers, 82 Nev. 277, 280, 416 P.2d 387 (1966). It
21 is a well settled legal principle that a right to an injunction rests solely
22 upon the continuance of the zoning law governing said order. The injunction
23 is thus subject to termination whenever the zoning law has changed. Such is
24 the case in the instant action. See Trappe v. Longaker, 430 A.2d 713 (Pa.
25 Cmwlth. 1981); see also Partain v. City of Royston, 284 S.E.2d 15 (Ga. 1981)
26 and Erickson v. Groomer, 336 P.2d 296 (Colo. 1959).

27 3. Equity will not take jurisdiction or interpose its powers
28 when there is a full, complete and adequate remedy at law and when a wrong

1 complained of can be fully compensated in money damages. See Conley v.
2 Chedic, 6 Nev. 222, 224 (1870). The HERMANS' own appraiser has given his
3 opinion that their residence and property has a fair market value of
4 \$135,000 even with the BASSETT building located on their property line with
5 no side yard setback. The HERMANS have accepted a \$135,000 written offer to
6 purchase their residence and property. The HERMANS have an adequate remedy
7 at law and therefore injunctive relief is not available. See State
8 (Mongolo) v. District Court, 46 Nev. 410, 416-17, 211 P.105 (1923).

9 4. The financial hardship which Defendants would face if this
10 Court grants a mandatory injunction would be substantial. The case of
11 Gladstone v. Gregory, 95 Nev. 474, 596 P.2d 491 (1979) allows a Court to
12 balance equities if Plaintiffs engage in some inequitable conduct. Id. at
13 page 480. The facts of the case at bar do demonstrate that the HERMANS have
14 engaged in inequitable conduct while Defendants CARSON CITY and BASSETT have
15 clean hands. The HERMANS failed to have their zoning clarified in 1979 when
16 they were informed by their own building contractor that their property was
17 zoned industrial. They further sat on their legal rights in September, 1984
18 and watched BASSETT construct his light industrial building. BASSETT has
19 suffered a substantial change of position by completing construction on a
20 three hundred twenty-six thousand dollar (\$326,000.00) commercial building.
21 Considering the special facts and circumstances of the instant case, the
22 HERMANS are equitably estopped from seeking a mandatory injunction. See
23 Richards v. City of Highland, 375 N.E2d 1023 (Ill. App. 1978); see also
24 Sharrett v. Campbell, 440 N.E.2d 167 (Ill. App. 1982); Penelko, Inc., v.
25 John Price Associates, Inc., 642 P.2d 1229 (Utah 1982); and Lenhoff v. Birch
26 Bay Real Estate, Inc., 587 P.2d 1087 (Wash. App. 1978).

27 JUDGMENT

28 Based on the foregoing, the Plaintiffs' Motion for Summary

1 Judgment on the issue of mandatory injunction is denied and Defendants
2 CARSON CITY and NORMAN BASSETT's Cross-Motion for Summary Judgment seeking
3 denial of the mandatory injunction as a matter-of-law is granted.

4 Each party shall bear his own attorney's fees and costs.

5 Dated this 19 day of November, 1986.

6
7 *Michael R. Gaffin*
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9 DISTRICT JUDGE
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Client All Fields

10953		MLS # 210005288 Status Under Contract-Show Class Residential Type Single Family Residence Address 1449 S Sutro Unit # City Carson City State NV Zip 89706 Area 250 Carson N.N.E. County Carson City	Asking Price \$599,900 Bedrooms # 3 Baths #Full or 3/4 3 # Half Baths 0 # Garage 2 # Carport 0 Total Parking Cap. 2 Acreage 1.00 Year Built 1979 Total Living Space 2248 Price per SQFT \$266.86	
-------	--	--	---	--

General

Stories	Tri-Level	Original Price	\$599,900
Construction	Site/Stick-Built	Zoning Actual	LI
Common Interest Ownership	No	Sale/Lease	For Sale
Attached Common Wall	No	Special Condition of Sale	None
Water Rights	No	CC/R Restrictions	Yes
Horses Okay	No	Days on Market	35
Parcel #	00868301	IPES	
Taxes \$	\$1,977.00	Virtual Tour	
Assessment \$	0.00	Xstreet/Directions	Emerson
Available for Showing		Unconverted Manuf. Housing Only	
Source of Zoning	Assessor	MH License #	
HOA	No	Width	
Average Monthly CIC Fee		Skirting	
Total Transfer Fees		Serial #	
Total Setup Fees	0.00	HUD #	
Total Other Fees	0.00	Personal Property Taxes	
Elementary School	Mark Twain	Condo Only	
Middle School	Carson	Unit Level	
High School	Carson		
Possession	Seller Requires Rent Back		



Features

GARAGE TYPES	Attached, Detached, Both Att & Det, RV Access /Parking	FOUNDATION EXTERIOR	Concrete - Crawl Space, Concrete Slab
HOA AMENITIES	No Amenities	ROOF	Stucco
ADJOINS	Undeveloped Acr	HEATING/COOLING	Pitched, Tile
VIEW	Yes, Mountain, Desert, Trees	WATER HEATER	Natural Gas, Baseboard, Fireplace, Evap Cooling
PERSONAL PROPERTY	Storage Shed	WINDOWS	Natural Gas
INCL		FIREPLACE	Double Pane, Metal Frame
APPLIANCES INCL	Washer, Dryer, Refrigerator in Kitchen	UTILITIES	Yes, One, Fireplace
PSNL PROP			Electricity, Natural Gas, City - County Water, Septic, Water Meter Installed, Internet Available, Cellular Coverage Avail
INTERIOR FIXTURES	Drapes - Curtains, Blinds - Shades, Smoke Detector(s)	LANDSCAPED	Yes, Fully Landscaped
LIVING ROOM	Separate/Formal, High Ceiling	SPRINKLERS	Front, Drip-Full
DINING ROOM	Great Room	FENCED	Back
FAMILY ROOM	Separate, Firplce-Woodstove-Pellet	PATIO/DECK	Yes, Covered, Deck
KITCHEN	Built-In Dishwasher, Breakfast Bar, Cook Top - Electric, Double Oven Built-in	EXTERIOR FEATURES	None - NA
MASTER BEDROOM	Double Sinks, Shower Stall	WATER TEST	No
LAUNDRY AREA	Yes, Laundry Room, Cabinets, Shelves	ACCESS	Public
OTHER ROOMS	Office-Den(not incl bdrm)	TOPOGRAPHY	Downslope
FLOOR COVERING	Carpet, Ceramic Tile, Sheet Vinyl	OWNER(S) MAY SELL	Conventional, VA, Cash, Exchange 1031

MLS Remarks

North Carson Spanish Style home. 1 acre property with huge views and no rear neighbor. Unobstructed peace and quiet. 3 separate patios and a balcony for entertaining and outdoor enjoyment. Private lot with huge circular driveway. 2 car attached garage and 1 car structure with sliding door large enough to fit the 3rd car. RV access to the back yard with a double wide gate. Backyard is serene with fruit trees, 2 ponds, and a deck to access the best views in Carson. No HOA in for this area

Extended Remarks

21 miles to Reno International Airport. 5 minutes to HWY 395, and 35 minutes to Lake Tahoe. Carson-Tahoe hospital is 7 minutes away. BLM land and walking trails are abundant and within distance of the front door.

Sold Information

Contract Date	4/27/2021	How Sold
Closing Date		Sold Price
Sold Price per SqFt		

Information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing. Information deemed reliable but not guaranteed

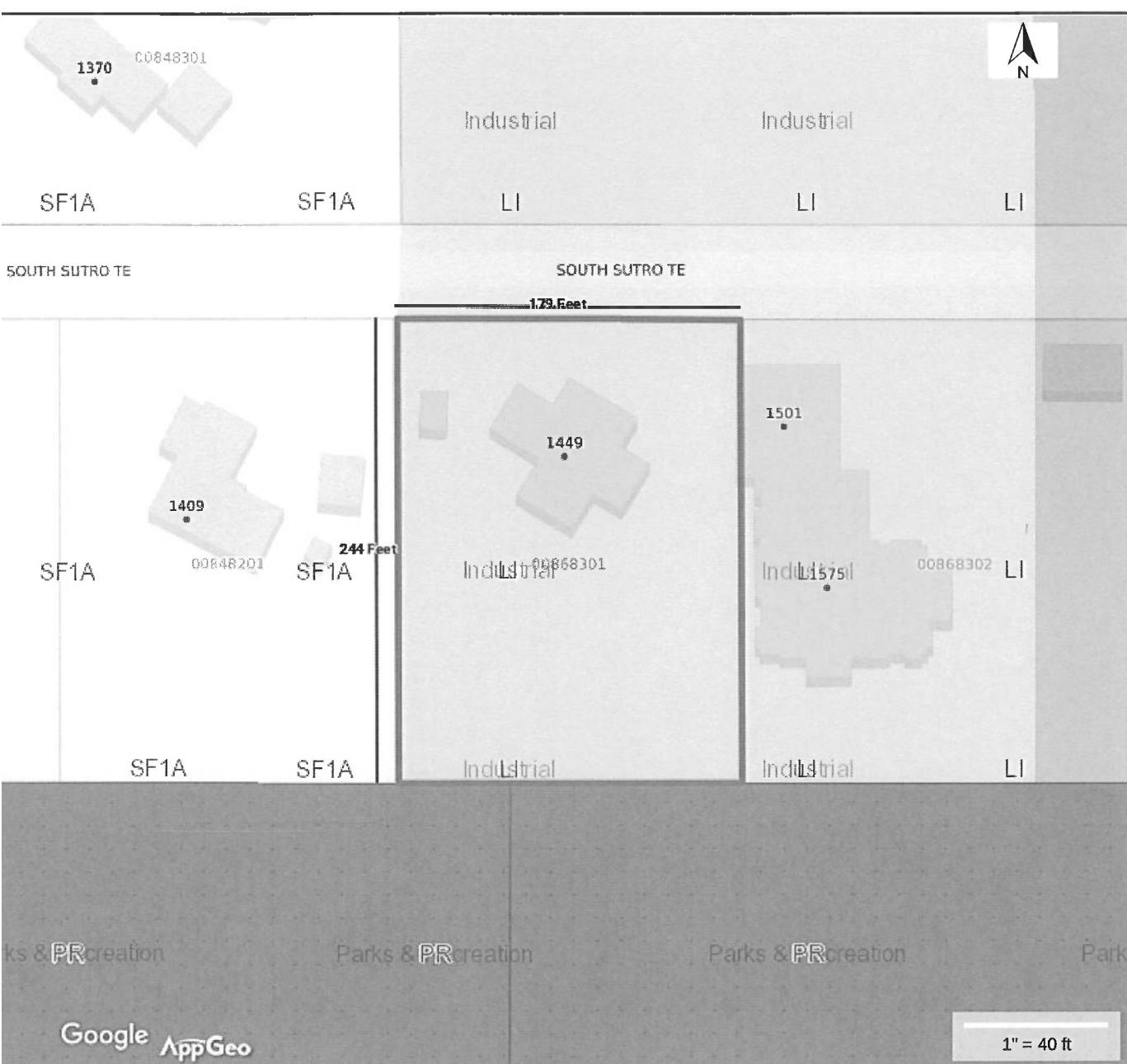
The seller of this property is represented by: eXp Realty
210005288

Daniel D Puz

05/26/2021

Page 2 of 2

Site Plan: Site Map - APN 00868301 / 1449 South Sutro TE



Google AppGeo

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.

Geometry updated 11/17/2018
Data updated 11/17/2018

Print map scale is approximate.
Critical layout or measurement activities should not be done using this resource.

Sharon Wentzlaff, 1449 S. Sutro TE,
Carson City, NV 89706, 775-841-6768
APN 00868301 / 1449 S. Sutro TE
Zoning Amendment to SF1A from LI

Property Information

Property ID 00868301
Location 1449 SOUTH SUTRO TER
Owner WENTZLAFF LIVING TRUST
Acres 1

Map Theme Legends

Address Points

● ADDRESS POINT

Master Plan

- Community / Regional Commercial
- Neighborhood Commercial
- Industrial
- Rural Residential (5-20 ac/du)
- Low Density Residential
(0.2-3 du/ac or 6-0.33 ac/du)
- Medium Density Residential
(3-8 du/ac)
- High Density Residential
(8-36 du/ac)
- Public / Quasi-Public
- Washoe Tribe
- Office
- Vacant Private Land
- Conservation Reserve
(Private)
- Downtown Mixed-Use
- Mixed-Use Commercial
- Mixed-Use Residential
- Mixed-Use Employment
- Public Conservation
- Open Space
- Parks & Recreation

Carson City, NV Master Plan Land Use This layer should not be confused with current land usage, which is called zoning. This layer depicts the future planned land usage agreed upon by the Carson City Planning Department and the Board of Supervisors.

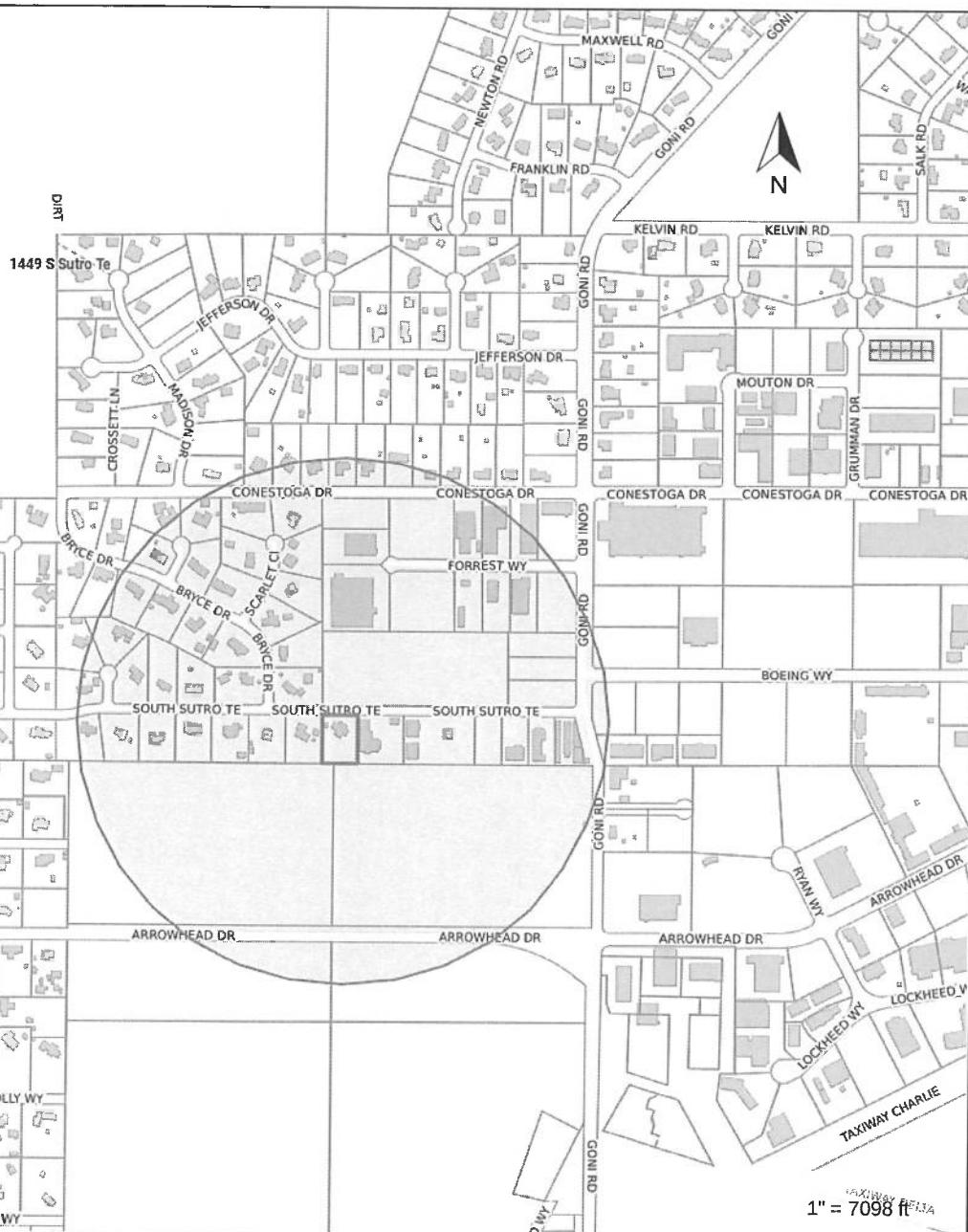
Current Zoning

- ZONECODE
- Agricultural
- Airport Industrial Park
- Conservation Reserve
- Downtown Mixed-Use
- General Commercial
- General Commercial PUD
- General Commercial SPA
- General Industrial
- General Industrial Airport
- General Office
- Limited Industrial
- Multi-Family Apartments
- Multi-Family Apartments PUD
- Multi-Family Apartments SPA
- Multi-Family Duplex
- Multi-Family Duplex PUD
- Multi-Family Duplex SPA
- Mobilehome - 6,000 sf
- Mobilehome - 6,000 sf PUD
- Mobilehome - 12,000 sf
- Mobilehome - 1 ac
- Mobilehome Park
- Neighborhood Business
- Neighborhood Business PUD
- Neighborhood Business SPA
- Public
- Public Community
- Public Community PUD
- Public Community SPA
- Public Neighborhood
- Public Neighborhood PUD
- Public Regional
- Retail Commercial
- Retail Commercial PUD
- Residential Office
- Residential Office PUD
- Single-Family - 6,000 sf
- Single-Family - 6,000 sf PUD
- Single-Family - 6,000 sf SPA
- Single-Family - 12,000 sf
- Single-Family - 12,000 sf PUD
- Single-Family - 21,000 sf
- Single-Family - 21,000 sf PUD
- Single-Family - 1 ac
- Single-Family - 1 ac PUD
- Single-Family - 2 ac
- Single-Family - 2 ac PUD
- Single-Family - 5 ac
- Tourist Commercial
- Tourist Commercial PUD

Carson City Zoning Boundary Layer. Layer was created using the Carson City Parcel Boundary File and the Carson City Street Centerline File.

Site Plan: Vicinity Map APN 00868301 / 1449 South Sutro TE

△△



Property Information

Property ID 00868301
 Location 1449 SOUTH SUTRO TER
 Owner WENTZLAFF LIVING TRUST
 Acres 1



MAP FOR REFERENCE ONLY
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 Zoning Amendment to SF1A from LI

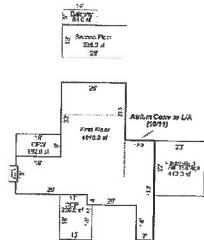
Carson City Property Inquiry

Property Information

Parcel ID	008-683-01	Parcel	1.0000
Tax Year	2021 <input checked="" type="checkbox"/>	Acreage	
Land Use	RES	Assessed	81,143
Group		Value	
Land Use	200 - Single Family Residence	Tax Rate	0.0000
Zoning	LI	Total Tax	\$0.00
Tax District	024	Fiscal Year	(2021 - 2022)
Site Address	1449 SOUTH SUTRO TERR	Total Unpaid	\$0.00
		All Years	
			Pay Taxes
Public Notes	FIREPLACE, ROOFED PORCH, 84 SF WD BALCONY, (03 180 SF ATRIUM CONV TO L/A) LIVING RM, DINING RM, DEN 88% ONE STORY, 22% TWO STORY		

Sketches & Photos

Converted Sketch



● Assessments

Taxable Value	Land	Building	Per. Property	Totals
Residential	94,000	137,838	0	231,838
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	94,000	137,838	0	231,838
Assessed Value	Land	Building	Per. Property	Totals
Residential	32,900	48,243	0	81,143
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	32,900	48,243	0	81,143
	New Land	New Const.	New P.P.	Omit Bldg
Residential	0	0	0	0
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Totals	0	0	0	0

● Assessor Descriptions

Assessor Descriptions	Subdivision Name	Section	Township	Range	Block & Lot
Changed from Parcel #008-681-07,97-98,*****8		33	T16N	R20E	

No Personal Exemptions

No Billing Information

Payment History

Fiscal Year	Total Due	Total Paid	Amount Unpaid	Date Paid
+(2020 - 2021)	\$1,977.82	\$1,977.82	\$0.00	2/12/2021
+(2019 - 2020)	\$1,920.24	\$1,920.24	\$0.00	3/3/2020
+(2018 - 2019)	\$1,882.96	\$1,882.96	\$0.00	3/1/2019
+(2017 - 2018)	\$1,810.01	\$1,810.01	\$0.00	3/2/2018
+(2016 - 2017)	\$1,764.86	\$1,764.86	\$0.00	1/10/2017
+(2015 - 2016)	\$1,761.31	\$1,761.31	\$0.00	3/4/2016
+(2014 - 2015)	\$1,726.96	\$1,726.96	\$0.00	2/13/2015
+(2013 - 2014)	\$1,676.68	\$1,676.68	\$0.00	12/30/2013
+(2012 - 2013)	\$1,593.21	\$1,593.21	\$0.00	8/21/2012
+(2011 - 2012)	\$1,546.70	\$1,546.70	\$0.00	12/30/2011
+(2010 - 2011)	\$1,517.91	\$1,517.91	\$0.00	9/30/2010
+(2009 - 2010)	\$1,473.77	\$1,473.77	\$0.00	10/6/2009
+(2008 - 2009)	\$1,414.78	\$1,414.78	\$0.00	1/8/2009
+(2007 - 2008)	\$1,373.56	\$1,373.56	\$0.00	9/25/2007
+(2006 - 2007)	\$1,346.93	\$1,346.93	\$0.00	10/3/2006
+(2005 - 2006)	\$1,294.72	\$1,294.72	\$0.00	3/2/2006
+(2004 - 2005)	\$1,257.01	\$1,257.01	\$0.00	8/11/2004
+(2003 - 2004)	\$1,241.04	\$1,241.04	\$0.00	8/14/2003
+(2002 - 2003)	\$1,217.60	\$1,217.60	\$0.00	3/7/2003
+(2001 - 2002)	\$1,240.85	\$1,240.85	\$0.00	1/7/2002
+(2000 - 2001)	\$1,238.39	\$1,238.39	\$0.00	1/5/2001
+(1999 - 2000)	\$1,221.64	\$1,221.64	\$0.00	10/1/1999
+(1998 - 1999)	\$1,185.00	\$1,185.00	\$0.00	9/14/1998
+(1997 - 1998)	\$1,121.68	\$1,121.68	\$0.00	8/14/1997
+(1996 - 1997)	\$1,133.04	\$1,133.04	\$0.00	3/25/1997

[Collapse](#)

Related Names

CURRENT OWNER FOR 2021 (2021 - 2022)

Name	WENTZLAFF LIVING TRUST, H A & S V WENTZLAFF, TTEES
Mailing Address	1449 SOUTH SUTRO TERR CARSON CITY, NV, 89706- 0000
Status Account	Current

Structure 1 of 2

Property Type	Description	Style	Total Floor Area	Year Built																									
RES	SINGLE FAMILY RES	70% One Story 30% Two Story	2,248	1979																									
Accommodations																													
<table border="1"> <tr> <td># of Stories</td> <td>1.20</td> <td>Mobile Home</td> <td colspan="2"></td></tr> <tr> <td># of Bedrooms</td> <td>3.00</td> <td>DRS Length Style One</td> <td>0.00</td> <td></td></tr> <tr> <td># of Bathrooms</td> <td>2.00</td> <td>DRS Width Style One</td> <td>0.00</td> <td></td></tr> <tr> <td># of Bsmt Bedrooms</td> <td>0.00</td> <td>DRS Length Style Two</td> <td>0.00</td> <td></td></tr> <tr> <td># of Bsmt Bathrooms</td> <td>0.00</td> <td>DRS Width Style Two</td> <td>0.00</td> <td></td></tr> </table>					# of Stories	1.20	Mobile Home			# of Bedrooms	3.00	DRS Length Style One	0.00		# of Bathrooms	2.00	DRS Width Style One	0.00		# of Bsmt Bedrooms	0.00	DRS Length Style Two	0.00		# of Bsmt Bathrooms	0.00	DRS Width Style Two	0.00	
# of Stories	1.20	Mobile Home																											
# of Bedrooms	3.00	DRS Length Style One	0.00																										
# of Bathrooms	2.00	DRS Width Style One	0.00																										
# of Bsmt Bedrooms	0.00	DRS Length Style Two	0.00																										
# of Bsmt Bathrooms	0.00	DRS Width Style Two	0.00																										
Roofing																													
Concrete Tile	100 % of Total Floor Area	Exterior Walls																											
<table border="1"> <tr> <td>Frame, Stucco</td> <td>100 % of Total Floor Area</td> </tr> </table>					Frame, Stucco	100 % of Total Floor Area																							
Frame, Stucco	100 % of Total Floor Area																												
Floor Cover																													
Automatic Floor Cover Allowance		Heating/Cooling																											
<table border="1"> <tr> <td>Baseboard, Hot Water</td> <td>100 % of Total Floor Area</td> </tr> </table>					Baseboard, Hot Water	100 % of Total Floor Area																							
Baseboard, Hot Water	100 % of Total Floor Area																												
Plumbing Fixtures																													
Plumbing Fixtures	9 Number of Fixtures	Built-In Appliances																											
<table border="1"> <tr> <td>Automatic Appliance Allowance</td> <td></td> </tr> </table>					Automatic Appliance Allowance																								
Automatic Appliance Allowance																													
Subfloor																													
Slab on Grade	% of Total Floor Area	Plumbing Rough-Ins																											
Raised Subfloor	% of Total Floor Area	Plumbing Rough-ins	1 Number of Rough-Ins																										
Porches, Decks, Breezeways																													
Slab Porch with Roof	226 Porch Area	Fireplaces																											
<table border="1"> <tr> <td>Single 1-Story Fireplace</td> <td>1 Number of Fireplaces</td> </tr> </table>					Single 1-Story Fireplace	1 Number of Fireplaces																							
Single 1-Story Fireplace	1 Number of Fireplaces																												
Balconies																													
Wood Balcony	84 Balcony Area																												

Structure 2 of 2				
Property Type	Description	Style	Total Floor Area	Year Built
RES	Outbuilding Structure 1	100% One Story	NA	NA
Miscellaneous		Categories		
ATT GARAGE STUCCO QUAL 1-4		BLACKTOP-VERY VERY LARGE AREA 3000+ SF	3,000 Square Ft.	Year Built: 1979
DET GARAGE MTL/VINYL SIDING QUAL 1-4		CHAIN LINK FENCE-6'	150 Linear Ft.	Year Built: 1979
		FLATWORK- CONCRETE 3" (0- 999SF)	227 Square Ft.	Year Built: 1979
		GARAGE SEMI-FINISH	440 Square Ft.	Year Built: 1979
		PATIO COVER-LATTICE	252 Square Ft.	Year Built: 2007
		PLANTER-SLMP STN	80 Square Ft.	Year Built: 1979
		SPRINKLERS- RESIDENTIAL X 1 (+2000 SF)	1 Quantity	Year Built: 1979
		STEPS-CONCRETE	20 Linear Ft.	Year Built: 1979
		TYPICAL SEPTIC SYSTEM 1000 GAL	1 Quantity	Year Built: 1979
		WALL-CONC BLK 4"	484 Square Ft.	Year Built: 1979

Sales History						
DISCLAIMER: SOME DOCUMENTS MAY NOT BE SHOWN						
Year	Document #	Document Type	Sale Date	Sold By	Sold To	Price
2003	298171	RE-RECORDED DOCUMENT	5/15/2003	MARY COLLINGS	WENTZLAFF LIVING TRUST 10/8/02	\$260,000
1993	149169		9/3/1993		MARY COLLINGS	\$175,000

No Genealogy Information

No Taxing Entity Information

MASTER PLAN AMENDMENT APPLICATION FINDINGS

A. **Consistency with Master Plan. The proposed amendment is in substantial compliance with the goals, policies and action programs of the Master Plan.**

a. **CHAPTER 3: A BALANCED LAND USE PATTERN** – The proposed reflects actual Land Use since 1979 and maintains a diverse choice of housing for the community.

I. Discourage growth outside areas planned to be served by community water and wastewater facilities as identified in the Water and Wastewater Master Plans (1.1b)?

1. Yes. No growth required.

II. Promote infill and redevelopment in an identified priority area (1.2a)?

1. Not applicable

III. At adjacent county boundaries, minimize potential land use conflicts with adjacent properties (1.5a)?

1. Not applicable. Property is not adjacent to any county boundaries.

IV. Adjacent to State or Federal lands, ensure compatibility with planned adjacent uses and access (1.5b)

1. Not applicable. Property is not adjacent to State or Federal lands.

V. Located to be adequately served by city services including fire and sheriff services and coordinated with the School District to ensure the adequate provision of schools (1.5d)?

1. Yes. No Changes to existing city services and schools required. Single Family Residence land use has been accounted for since the single-family residence was built in 1979.

VI. Promote a citywide range of mixed-use, residential, commercial and employment uses at a variety of scales and intensities (2.1a)?

1. Yes. Maintains the Single-Family Residence Land Use since the single-family residence was built in 1979.

VII. In identified Mixed-Use areas, promote mixed-use development patterns as appropriate for the surrounding context consistent with the land use descriptions of the applicable Mixed-Use designation, and meet the intent of the Mixed-Use Evaluation Criteria (2.1b, 2.2b, 2.3b, Land Use Districts)?

1. Yes, the proposed corrects current zoning LI to the actual and tax assessed Land Use - Single-Family Residence by amending to SF1A.

VIII. Discourage rezoning of properties that create “friction zones” between adjacent land uses, particularly industrial and residential uses (2.1d)?

1. From 1979 to the present there is no friction between the adjacent property to the west (APN 00848241, zoning SF1A, Master Plan SF1A). Proposed maintains the property land use with the historic land use that the adjacent property to the west is accustomed with.
2. From 1979 to present there is no friction between the adjacent properties to the south (two vacant lots, Zoning Public Regional - PR, Master Plan - Parks & Recreation).
3. From 1987 to the present, there is no friction between the adjacent property to the east (APN 00868302, zoning LI/GI). See Attachment 1 – 1986 Court Decision Herman vs. Carson City and Norman Bassett, for the history of adjoining properties APN 00868301 and 00868302.

IX. Encourage development outside the primary floodplain and away from geologic hazard areas (3.3d, e)?

1. APN 00868301/1449 South Sutro TE is not located in a primary floodplain and is away from geologic hazard areas. No development required.

X. Provide for zoning consistent with the Land Use designation (Land Use table descriptions)?

1. Yes, the proposed changes the zoning to SF1A from LI to match the Single-Family Land Use designation. See the Carson City Parcel Details for APN 00868301.

XI. Meet the location criteria for the applicable Land Use designation Land Use descriptions)?

1. Yes, Single Family Residence at 1449 S. Sutro Te been used as a Single-Family residence since construction in 1979. Land Use Group: RES, Land Use: 200 – Single Family Residence. Reference Carson City Parcel Details for APN 00868301.

XII. If located within an identified Specific Plan Area (SPA), meet the applicable policies of that SPA (Land Use Map, Chapter 8)?

1. Not applicable. Property is not located in a SPA.

b. **CHAPTER 4: EQUITABLE DISTRIBUTION OF RECREATIONAL OPPORTUNITIES – Not Applicable.**

- I. The proposed re-zoning of APN 00868301 / 1449 S. Sutro Te to Single-Family Residence One Acre from Limited Industrial does not apply or impact parks, recreation opportunities, Open Space Master Plan, or the Carson River Master Plan.

c. **CHAPTER 5: ECONOMIC VITALITY**

- I. Help maintain and enhance the primary job base (5.1)?
 1. Not Applicable. Project does not impact the primary job base.
- II. Encourage a citywide housing mix consistent with the labor force and non-labor force populations (5.1j)
 1. Yes, the project maintains the Single-Family Residence Land use and the existing residence since construction in 1979.
- III. Encourage the development of regional retail centers (5.2a)
 1. Not applicable. Proposed is a Single-Family Residence built in 1979.
- IV. Encourage reuse or redevelopment of underused retail spaces (5.2b)?
 1. Not applicable. Proposed is a Single-Family Residence built in 1979.
- V. Support heritage tourism activities, particularly those associated with historic resources, cultural institutions and the State Capitol (5.4a)?
 1. Not applicable. Proposed is a Single-Family Residence built in 1979.
- VI. Promote revitalization of the Downtown core (5.6a)?
 1. Not applicable. Proposed is a Single-Family Residence built in 1979. The property is not near the Downtown core.
- VII. Encourage the incorporation of additional housing in and around the Downtown (5.6c)?
 1. Not applicable. Proposed is a Single-Family Residence built in 1979. The property is not near the Downtown core.

d. **CHAPTER 6: LIVABLE NEIGHBORHOODS AND ACTIVITY CENTERS**

- I. Promote compatibility with surrounding development for infill projects or adjacent to existing rural neighborhoods (6.2a, 9.3b 9.4a)?
 1. Yes. Proposed makes no changes to Single Family Land Use which has existed since the residence was built in 1979. Maintains the historic land use expected by adjacent properties and the surrounding neighborhood.

- II. If located in an identified Mixed-Use Activity Center or m area, provide for the appropriate mix, size and density of land uses consistent with the Mixed-Use district policies (7.1a, b)?
 - 1. Not applicable. Proposed is not in a “m” area and maintains the Single-Family Residence Land Use that has existed since 1979 when the single-family residence was built.
- III. Encourage an appropriate mix of housing models and densities based upon the location, size, and surrounding neighborhood context (9.1a)?
 - 1. Yes. The proposed maintains the existing Single-Family Residence Land Use since the construction of the residence in 1979. Proposed maintains the current appropriate mix of housing models based on the location, size, and surrounding neighborhood context. Proposed maintains a unique housing model with beautiful Nature Views. See Attachment 3 – MLS Listing
- IV. Discourage “spot” rezoning of parcels within established rural neighborhoods that have not been identified as higher density on the Land Use Map or that are not contiguous with lots zoned for a comparable density (9.4b)?
 - 1. Yes. Proposed is not a “spot” rezoning. Proposed is consistent with zoning of adjacent property to the west (SF1A). Proposed matches the Single-Family Land Use since the Single-Family residence was built in 1979.

e. **CHAPTER 7: A CONNECTED CITY** – The proposed is supported by existing transportation infrastructure and has been so since the single-family residence was built in 1979.

- I. Promote transit-supportive development patterns along major travel corridors to facilitate future transit (11.2b)?
 - 1. Yes. No impact to current and future transit-supportive development patterns. Existing and future transit supported by current transportation infrastructure since the single-family residence was built in 1979.
- II. Promote enhanced roadway connections and networks consistent with the transportation master plan (11.2c)?
 - 1. Yes. Proposed has no impact to roadway connections and networks. Existing and future transit supported by current transportation infrastructure since the single-family residence was built in 1979.
- III. Provide for appropriate pathways through the development and to surrounding lands, including parks and public lands, consistent with the unified pathways Master Plan and the proposed use and density (12.1a, c)?
 - 1. Yes. Proposed maintains the current pathways consistent with the Unified Pathways Master Plan since 1979.

B. Compatible Land Uses. The proposed amendment will provide for land uses compatible with existing adjacent land uses, and will not adversely impact the public health, safety or welfare.

- a. Describe the existing land uses and Master Plan land use designations of the adjacent properties.
 - I. **West:** one house, Single Family One Acre zoning; **East:** one commercial business, General Industrial / Limited Industrial zoning; **South:** two vacant lots, Public Regional zoning, Parks & Recreation Master Plan
- b. How will the proposed amendment be compatible with these uses?
 - I. Maintains the Land Use expected by the adjacent properties and the surrounding neighborhood since the single-family residence was built in 1979.
- c. Explain how the approval of this amendment will not have an adverse impact on the public health, safety, or welfare.
 - I. No adverse impact. Proposed has been accounted for in the existing community infrastructure requirements for public health, safety, and welfare since the single-family residence was built in 1979.

C. Response to Change Conditions. The proposed amendment addresses changed conditions that have occurred since the plan was adopted by the Board and the requested amendment represents a more desirable utilization of land.

- a. Has there been a change in conditions in the area of your property since the Master Plan was adopted by the Board?
 - I. No
- b. How will the proposed amendment to the Master Plan address a more desirable utilization of the land as a result of this change in conditions?
 - I. Proposed amendment maximizes the value of the property to Carson City, the seller, and the buyer.
 - II. **Carson City:** Carson City will gain \$5,500 (plus admin fees) for the application and approximately \$3,146 in *additional annual* property tax revenue based on the purchase agreement at the list price of \$599,900.
 - III. **Owner/seller:** The owner/seller (Wentzlaff Living Trust) can sell the single-family residence for the list price of \$599,900 and complete the purchase of another Carson City property. The owner/seller is downsizing residence due to age. After the signed purchase agreement for 1449 South Sutro TE occurred, Henry Wentzlaff, the other member of the Wentzlaff Living Trust died thus increasing the requirement to downsize to a smaller property. The owner/seller has entered into a purchase agreement for another property prior to the death of Henry Wentzlaff.

- IV. **Buyer:** The Buyer's lender is concerned if the single-family residence is destroyed and must be replaced that due to the zoning of SF1A, the single-family residence could not be rebuilt on the property.
- V. Proposed maintains the actual land use the adjacent properties and the surrounding neighborhood are accustomed to since the single-family residence was built in 1979.

D. **Desired Pattern of Growth.** The proposed amendment will promote the desired pattern for the orderly physical growth of the City and guides development of the City based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.

- a. Explain how your proposed amendment to the Master Plan will promote the desired pattern for orderly physical growth in the City.
 - I. Maintains the actual Land Use since the single-family residence was built in 1979.
- b. How will it allow for the efficient expenditure of funds for public services?
 - I. No impact. All public service expenditures are accounted for and have existed since the single-family residence was built in 1979.
- c. Explain how the amendment will provide for the least amount of natural resource impairment.
 - I. Proposed has no impact on natural resources as it maintains the Land Use of the property since the single-family residence was built in 1979.

Master Plan Policy Checklist

Master Plan and Zoning Map Amendments

PURPOSE

The purpose of a development checklist is to provide a list of questions that address whether a development proposal is in conformance with the goals and objectives of the 2006 Carson City Master Plan that are related to Master Plan Map Amendments and Zoning Map Amendments. This checklist is designed for developers, staff, and decision-makers and is intended to be used as a guide only.

Development Name: Amend Master Plan and Zoning Map for APN 00868301 to SF1A from LI

Reviewed By: _____

Date of Review: _____

DEVELOPMENT CHECKLIST

The following five themes are those themes that appear in the Carson City Master Plan and which reflect the community's vision at a broad policy level. Each theme looks at how a proposed Master Plan or Zoning Map Amendment can help achieve the goals of the Carson City Master Plan. A check mark indicates that the proposed amendment meets the applicable Master Plan policy. The Policy Number is indicated at the end of each policy statement summary. Refer to the Comprehensive Master Plan for complete policy language.

CHAPTER 3: A BALANCED LAND USE PATTERN



The Carson City Master Plan seeks to establish a balance of land uses within the community by providing employment opportunities, a diverse choice of housing, recreational opportunities, and retail services.

Is or does the proposed amendment:

- Discourage growth outside areas planned to be served by community water and wastewater facilities as identified in the Water and Wastewater Master Plans (1.1b)?
- Promote infill and redevelopment in an identified priority area (1.2a)?
- At adjacent county boundaries, minimize potential land use conflicts with adjacent properties (1.5a)?

- Adjacent to State or Federal lands, ensure compatibility with planned adjacent uses and access (1.5b)
- Located to be adequately served by city services including fire and sheriff services, and coordinated with the School District to ensure the adequate provision of schools (1.5d)?
- Promote a citywide range of mixed-use, residential, commercial and employment uses at a variety of scales and intensities (2.1a)?
- In identified Mixed-Use areas, promote mixed-use development patterns as appropriate for the surrounding context consistent with the land use descriptions of the applicable Mixed-Use designation, and meet the intent of the Mixed-Use Evaluation Criteria (2.1b, 2.2b, 2.3b, Land Use Districts)?
- Discourage rezoning of properties that create "friction zones" between adjacent land uses, particularly industrial and residential uses (2.1d)?
- Encourage development outside the primary floodplain and away from geologic hazard areas (3.3d, e)?
- Provide for zoning consistent with the Land Use designation (Land Use table descriptions)?
- Meet the location criteria for the applicable Land Use designation (Land Use descriptions)?
- If located within an identified Specific Plan Area (SPA), meet the applicable policies of that SPA (Land Use Map, Chapter 8)?

CHAPTER 4: EQUITABLE DISTRIBUTION OF RECREATIONAL OPPORTUNITIES



The Carson City Master Plan seeks to continue providing a diverse range of park and recreational opportunities to include facilities and programming for all ages and varying interests to serve both existing and future neighborhoods.

Is or does the proposed amendment:

- Provide opportunities to expand parks and recreation opportunities (4.2a)?
- Consistent with the Open Space Master Plan and Carson River Master Plan (4.3a)?

CHAPTER 5: ECONOMIC VITALITY



The Carson City Master Plan seeks to maintain its strong diversified economic base by promoting principles which focus on retaining and enhancing the strong employment base, include a broader range of retail services in targeted areas, and include the roles of technology, tourism, recreational amenities, and other economic strengths vital to a successful community.

Is or does the proposed amendment:

- Help maintain and enhance the primary job base (5.1)?

- Encourage a citywide housing mix consistent with the labor force and non-labor force populations (5.1j)
- Encourage the development of regional retail centers (5.2a)
- Encourage reuse or redevelopment of underused retail spaces (5.2b)?
- Support heritage tourism activities, particularly those associated with historic resources, cultural institutions and the State Capitol (5.4a)?
- Promote revitalization of the Downtown core (5.6a)?
- Encourage the incorporation of additional housing in and around the Downtown (5.6c)?

CHAPTER 6: LIVABLE NEIGHBORHOODS AND ACTIVITY CENTERS



The Carson City Master Plan seeks to promote safe, attractive and diverse neighborhoods, compact mixed-use activity centers, and a vibrant, pedestrian-friendly Downtown.

Is or does the proposed amendment:

- Promote compatibility with surrounding development for infill projects or adjacent to existing rural neighborhoods (6.2a, 9.3b 9.4a)?
- If located in an identified Mixed-Use Activity Center or m area, provide for the appropriate mix, size and density of land uses consistent with the Mixed-Use district policies (7.1a, b)?
- Encourage an appropriate mix of housing models and densities based upon the location, size and surrounding neighborhood context (9.1a)?
- Discourage "spot" rezoning of parcels within established rural neighborhoods that have not been identified as higher density on the Land Use Map or that are not contiguous with lots zoned for a comparable density (9.4b)?

CHAPTER 7: A CONNECTED CITY



The Carson City Master Plan seeks promote a sense of community by linking its many neighborhoods, employment areas, activity centers, parks, recreational amenities and schools with an extensive system of interconnected roadways, multi-use pathways, bicycle facilities, and sidewalks.

Is or does the proposed amendment:

- Promote transit-supportive development patterns (e.g. mixed-use, pedestrian-oriented, higher density) along major travel corridors to facilitate future transit (11.2b)?
- Promote enhanced roadway connections and networks consistent with the Transportation Master Plan (11.2c)?
- Provide for appropriate pathways through the development and to surrounding lands, including parks and public lands, consistent with the Unified Pathways Master Plan and the proposed use and density (12.1a, c)?

PROJECT IMPACT REPORTS – APN 00868301

Not applicable. The applicant contacted the Carson City Development and Engineering Office and spoke to Mr. Guillermo Munoz on May 26th, 2021. He stated, because land use of APN 00868301/1449 S. Sutro TE remains the same, there would be no impacts to the area, thus no reports required. The proposed Zoning amendment reflects the actual land use since the single-family residence was built in 1979. This will not impact existing improvements in the area nor any existing infrastructure.