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Carson City, Nevada 89701
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Hearing Impaired: 711

MEMORANDUM

Planning Commission Meeting of March 30, 2022

DATE: March 30, 2022

TO: Carson City Planning Commission

FROM: Heather Manzo, Associate Planner *HMA*

SUBJECT: Item 6.D For Possible Action: Discussion and possible action regarding a request for a special use permit for a fence located within the front setback area which exceeds the allowable fence height on property zoned Single Family - 1 Acre ("SF1A") and is located at 3809 Ponderosa Drive, APN 009-137-07.

Staff received the attached letter from the legal firm Allison MacKenzie on March 28, 2022 written on behalf of the applicant noting questions and concerns related to the conditions of approval for LU-2022-0061.

The applicant has requested a continuance of this item to the April 27, 2022 Planning Commission meeting, date certain in order to have more time to coordinate with staff on the conditions. The request is attached to this memo.

Staff supports the applicant's request for a continuance.

Heather Manzo

From: Jim Cavilia <jcavilia@allisonmackenzie.com>
Sent: Wednesday, March 30, 2022 11:02 AM
To: Heather Manzo
Cc: Susan Price
Subject: SUP LU-2022-0061; Jan Thomas

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Heather,

As we have discussed, based upon the recently revised proposed conditions to the above referenced special use permit, the applicant/property owner is requests that the Planning Commission's consideration of the special use permit application be continued to the April 27, 2022 Planning Commission meeting.

Please let me know if you have any questions or need any additional information.

Jim

James R. Cavilia, Esq.
Allison MacKenzie, Ltd.
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March 28, 2022

Heather Manzo
Associate Planner
Carson City Community Development
108 E. Proctor Street
Carson City, Nevada 89701

Via U.S. and Electronic Mail
hmanzo@carson.org

Re: Special Use Permit LU-2022-0061;
3809 Ponderosa Drive, Carson City, Nevada

Dear Heather:

This law firm has been retained by Janet L. Thomas and the Thomas Preservation Trust with regard to the above-referenced Special Use Permit application scheduled to be considered by the Planning Commission on Wednesday, March 30, 2022. We have reviewed your staff report related to the application and have a couple of questions and areas of concern that we would like to address with you before a decision is made on the application.

Initially we are concerned about the proposed condition that would require that a "disclosure document" be recorded. In the proposed condition you indicate that the fence is closer to the water infrastructure than "City standards permit." If you could point us to or provide us with a copy of the City standard that you are referring to it would be very helpful. The property owner does not dispute City's right to access its infrastructure and the right to remove improvements as needed to maintain and/or repair that infrastructure. We are concerned however about having a recorded declaration amounting to nothing more than a restatement of what is the City's right under existing law.

That recorded declaration amounts to an unnecessary, permanent encumbrance on the title to the real property. The property owner is willing to acknowledge the City's rights with regard to having the right to remove owner improvements in order to maintain and repair the City's infrastructure, but we are requesting that this acknowledgment not be recorded.

It is worth noting that City's water valve is on the streetside of the fence and has been utilized on numerous occasions to shut off and turn on the water since installation of the fence eight years ago. The fence has not been an impediment in any way. As you know, the water pipe from the meter to a residence is the responsibility of the property owner, and there is no reason the

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City would need to do any work on the residence side of the meter, so it seems highly unlikely that the City would ever need to damage the fence since the meter is completely accessible from the streetside of the fence.

With regard to the proposed condition related to fire department access, we do not know what a "knox switch" is, but the existing gate is entirely manual. It simply rolls open. Because there is no electric opener on it, we don't believe a "knox switch" is appropriate or possible. The property owner does agree that if an electric opener is ever installed on the gate, the appropriate switch would be installed to ensure easy access by the fire department.

We are also objecting to the condition that a building permit be obtained for the fence that has been in place for more than eight years. It is my understanding that fences do not require a building permit unless the fence is a masonry wall over four feet in height. For that reason, we would request that the building permit condition be deleted.

As I am sure you aware, the current property owner, as well as the prior owner, have objected to the selective application of this special use permit requirement to this property. It is my understanding that two new homes with nearly identical fences have recently been completed within a block of the subject property and the City has not required a special use permit in either case. Despite this issue having been raised previously, to my knowledge, no one in the Community Development Department has explained the basis for this selective enforcement.

Thank you for your attention to this matter. I am hopeful that a mutually satisfactory resolution can be reached with regard to the conditions addressed above. I look forward to hearing from you very soon.

Very truly yours,

Allison MacKenzie, Ltd.

By: 
James R. Cavilia, Esq.

JRC/sp
cc: Janet L. Thomas
4875-3157-5321, v. 1