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DEC 18 2023

CITY CLERK

City of Reno Notice of Appeal Form

Please complete this form to appeal a decision made by a City official, a hearing examiner, or the Planning Commission.

To be considered complete, the appeal must: (1) be in writing; (2) provide information addressing all of the items below; (3) be accompanied by the required appeal fee adopted by the City Council; and, (4) submitted to the City Clerk's Office or emailed to cityclerk@reno.gov.

An incomplete form will be returned to you, and may result in a delay in scheduling your appeal.

In addition, all appeals must be filed within the applicable period of limitations. For example, an appeal of a Planning Commission decision must be submitted to the City Clerk's Office within ten business days after the date of filing of notice of the decision with the City Clerk. (The City Clerk's Office maintains a list of common periods of limitations available upon request.)

Untimely appeals will be rejected by the City Clerk, and any appeal fees paid will be returned.

1. Type of Appeal (please select only one)

RMC: Title 18 Code

- ☐ Planning Commission Decision
- ☐ Hearing Examiner Decision
- ☐ Minor Deviation
- ☐ Minor Conditional Use Permit
- ☐ Site Plan Review
- ☐ Administrative Interpretation

RMC: Administrative Code

- ☐ Code Enforcement Citation
- ☐ Business License
- ☒ Building Permit
- ☐ Sign Permit
- ☐ Other:

BLD23-05279

2. Appellant Information:

Appellant Name: Michael Powell

Authorized Representative: _____

Address: 2640 Outlook Dr

Telephone No.: 512-351-2494

Email Address: michael-powell@earthlink.net

3. Brief description of the action, decision, or order being appealed. (Please reference the project name, address, case number, citation number, or permit number, as applicable. Attach additional sheets, as necessary.)

BLD23-05279
Issued 6 Dec 2023
Building/Residential/Grading & Site Improvements
2600 Outlook Dr.
APN 018-253-15

(BLD23-03075 for the construction of walls and a fence is related. I have previously appealed the issuance of BLD23-03075. A continuance of the first appeal hearing until 9 Jan 2024 was granted because Development Services had withheld documents that I had requested via a public records request.)

4. Describe in detail how the action, decision, or order being appealed impacts you or your property, as applicable. (Attach additional sheets, as necessary.)

The property that my wife and I own, 2640 Outlook Drive, shares a property line with 2600 Outlook Drive. Development Services has issued a permit for the owner of 2600 Outlook to build approximately 350 feet of two-foot-high concrete wall with two-foot-deep (i.e. subgrade) footer. Approximately 150 feet of this wall will be along the shared property line.

The two ends of this planned wall will loop back towards each other to form a sort of flattened figure eight enclosure that will serve as a planter bed. Once the planned wall is constructed, the enclosure will be filled with soil excavated from the back yard.

On the property line portion of the wall, a fence is planned to be constructed on top. Maximum heights of fences (or wall/fence combinations) are four feet in front yards and six feet in side and back yards. However, because Development Services has wrongly classified the planter bed wall on the property line as a retaining wall, the owner of 2600 Outlook plans to build the total wall/fence heights to six feet in the front yard and eight feet in the side and back yards.

In addition, Development Services has approved that the fence can be constructed by hanging shade fabric between wooden fence posts. According to Development Services, this is the first time this type of "fence" has been approved (so a precedent is being set) and the City does not regulate fence appearance or materials "unless they are a life safety issue."

Attached is a document titled "BLD23-03075 and BLD23-05279 Code Violations." It lists thirteen ways these permits violate Reno Municipal Code. I have appealed both permits.

I've created one list for both permits because it is unclear what aspects of this project fall under which permit. The actual sequence of work will be: build wall to create planter bed enclosures, move fill into planter beds, and build fence on top of wall. This sequence hops back and forth between the permits.

(continued)

5. Describe in detail the reason(s) why the action, decision, or order being appealed should be reversed, modified or set aside. (Attach additional sheets, as necessary.)

This permit (BLD23-05279) contains numerous code violations. These are listed in the attached document ("BLD23-03075 and BLD23-05279 Code Violations").

In addition, before a permanent and immovable structure is constructed on the shared property line, Development Services must explicitly require completion of a new boundary survey by a Professional Land Surveyor, and the new survey boundary markers must be inspected prior to commencement of any work under these permits.

Further, as required by code and the City of Reno Public Works Design Manual, concrete forms and rebar must be inspected prior to pouring concrete, and the concrete pours themselves must be inspected. These requirements are not listed on the approved plans or the permit inspection schedules.

Both permits should be rescinded and completely re-worked so that they comply with code and the inspection requirements are clearly stated on the site plans and the permits.

6. Please identify and attach all documentation/evidence that you would like considered supporting your appeal. (Attach additional sheets, as necessary.)

- 1) Continuation of Notice of Appeal Form (2 pages)
- 2) BLD23-03075 and BLD23-05279 Code Violations (3 pages)

7. Relief or action sought. (Attach additional sheets, as necessary.)

Immediately rescind permit BLD23-05279 (as well as BLD23-03075).

The permit should not be re-issued until all code requirements are met, a requirement for a boundary line survey and inspection is explicitly stated, and code-required inspections are stated on the plans and permits.

Appellant or Authorized Representative

Signature (Print Name):

Michael R. Powell 18 Dec 2023

☒ By checking this box, I agree information is complete and I have authority to sign this form.

For Office Use:	
Hearing Date:	<u>January 9th, 2024</u>
Hearing Time:	<u>9 am</u>
Hearing Location:	<u>Zoom</u>
<input checked="" type="checkbox"/> Via Zoom (Link emailed to information indicated above at least 5 business days prior to hearing)	
Received by:	<u>BT.</u>

Continuation of Notice of Appeal Form

4. Describe in detail how the action, decision, or order being appealed impacts you or your property, as applicable.

(continued)

The planned wall, grading, and fence will harm my property interests in at least the following ways:

1) Disruption of existing surface drainage:

In violation of RMC, the planned concrete wall on the property line will block existing drainage from 2640 Outlook Dr. This will cause erosion on my property along the entire northern boundary line.

2) Discharge of surface drainage across property line:

In violation of RMC, the planned grading directs surface drainage from 2600 Outlook across the property line to 2640 Outlook. This will cause erosion on my property and will damage a jointly-owned bridge across Last Chance ditch.

3) Placement of fill on property line:

In violation of RMC, the plans call for the placement of fill within five feet of the property line. This will allow a permanent concrete structure to be built directly on the property line.

4) Creation of an unattractive neighborhood feature:

In violation of RMC, the planned shade fabric "fence" atop an unfinished concrete wall - which will be visible from Belford Road, Outlook Drive, my front yard, my side yard, my back yard, my driveway, my garage window, my upstairs hall window, my utility room windows, my living room window, my dining room window, and my kitchen window – will be ugly. This will negatively affect my property value.

5) Obstruction of street view from driveway:

In violation of RMC, the planned six-foot-tall wall/fence in the front yard will obstruct my view of traffic in the street from my driveway, as well as the view of the street from the 2600 Outlook driveway. Both driveways are within 20 feet of the property line. This is a public safety issue.

6) Property encroachment:

The only existing survey for the property line is the original plat survey from 1946, and the corner markers from that survey are long gone. Therefore, the true location of the boundary line is unknown.

A minimum three-foot-wide, two-foot-deep trench along the property line will be required to build the concrete forms for the planned wall. Unlike fence posts, which are relatively easy to remove and relocate, the planned concrete wall will be massive, immovable, and permanent. If built, it will likely be here longer than the existing houses in this neighborhood.

Therefore, in order to ensure that construction of this wall is completely contained on 2600 Outlook Drive with no encroachment whatsoever on 2640 Outlook Drive, Development Services must explicitly require a survey to locate the actual property boundary and inspect that survey prior to the start of any trenching, construction, or movement of fill. (This is not a typical fence project, so the city should not treat it as one.)

Just west of Last Chance ditch, the son of the owner of 2600 Outlook Drive has already moved fill to what he thinks is the property line. He is unlikely to get a property line survey unless Development Services explicitly requires it.

Development Services has told me that any problems caused by the planned wall would be mine to deal with in civil court. This is unacceptable. The city is unlikely to order the removal of a massive concrete wall if it encroaches on my property by, say, six inches. Therefore, the city has an obligation to make sure that it doesn't.

BLD23-03075 and BLD23-05279 Code Violations

2600 Outlook Dr, Reno (APN 018-253-15)

BLD23-03075 is for wall and fence construction. BLD23-05279 is for grading.

1 RMC 18.04.809(d)(1) and (2)

Allows maximum fence heights of four feet in front yards and six feet in side and back yards. The permit allows six feet in front and eight feet in side and back yards.

2 RMC 18.04.809(c)(3)

Limits wall or fence height to four feet if within 20 feet of a driveway. The entire driveway of 2640 Outlook is within 20 feet of the planned wall/fence, and the first 23 feet of the 2600 Outlook driveway (as measured along the property line) is within 20 feet of the planned wall/fence. Yet, the permit allows a six-foot high wall/fence combination all the way to the curb easement.

3 RMC 14.18.080

Requires that fences be of “sound construction.” Shade fabric affixed to posts is not sound construction. (The unpermitted fence built by Tony Reno at Mrs. Reno’s 834 Moran St. property is nearly identical to what the approved fence permit calls for.)

4 RMC 18.04.809(a)

Requires that fences and walls “enhance the visual appearance of the built environment, establish an attractive streetscape, ensure visual compatibility with public spaces, [and] promote street and neighborhood character.” A “fence” made of shade fabric stretched between posts atop an unfinished concrete wall does none of these things.

5 RMC 8.22.30

Defines a retaining wall is a “self-standing structure designed to provide bank retention between grade separations.” There are no grade separations between or within the front and side yards of 2640 and 2600 Outlook Drive. There is no grade separation between the back yards of 2640 and 2600 Outlook. (There *are* grade separations within the back yard of 2600 Outlook because it was dug up without a permit.) Two-foot-high walls built on flat ground then filled with soil and plants are not retaining walls, they are garden

walls surrounding planter beds. Therefore, the fence height must be measured from the bottom of the fence and not from the bottom of the wall.

6 RMC 18.04.409(b)(5)

Require that retaining walls be constructed with decorative materials such as natural rock, brick, stamped and tinted concrete, stucco-faced concrete, or similar materials. The planned unfinished concrete wall is not decorative in any way.

7 RMC 18.04.409(b)(8)

Requires that retaining walls visible from areas with public access be integrated into the overall grading and landscape plans. The unfinished concrete walls will be visible from Belford Rd. and Outlook Dr. (as well as from the front, back, and side yards and front and back windows of 2640 Outlook Dr.).

Note: The two paragraphs immediately above are from Article 4 Hillside Development and Section 18.04.409 Slope Treatment because that is where actual retaining walls are built: on hillsides and on slopes. A wall built on flat ground is not a retaining wall.

8 RMC 18.04.302(e)(2) and RMC 18.04.1404(a)(1)

Prohibit fill from being placed within five feet of a residential property line for all land-use types. The permits allow fill to be placed at the property line.

9 RMC 18.04.302(b)

Requires that grading “limit visual scarring,” “limit unnecessary site disturbance,” and “limit impacts to water quality.” The permits allow half of the surface area of 2600 Outlook Drive (per grading plan: 0.3 acres and 450 cubic yards), which lies uphill from an irrigation ditch and has been undisturbed for nearly 70 years (built in 1955), to be re-worked from a relatively flat grade to one with high spots and low spots. This is completely contrary to RMC 18.04.302(b).

Per RMC 18.04.301, “all land-disturbing activity, including without limitation, grading or tree/vegetation clearance, shall comply with all applicable city standards, including without limitation, the Public Works Design Manual.” The planned grading fails to comply with the City of Reno Public Works Design Manual (PWDM), whose “requirements ... apply to public and private improvements,” in at least the following ways:

10 PWDM para 202.2.2.2.

“Existing surface drainage from adjoining property shall be perpetuated through the development.” The planned concrete wall on the property line will block existing drainage from 2640 Outlook Dr.

11 PWDM para 202.2.2.2

“Surface drainage from a developed area shall not cross any property line.” At the southeast corner of the planned walls, stormwater flow from in-wall perforated pipe and the designed flow line is being directed southeast across the property line onto 2640 Outlook Dr. The plans call for an estimated 1/4th of 2600 Outlook (0.15 acres) to drain to 2640 Outlook before reaching Last Chance ditch.

12 PWDM para 202.6.

“All plans adjacent to or containing an irrigation or water supply ditch shall require the signature of the ditch company on the face of the plans.” Last Chance Irrigation Co. has not signed off on either set of plans. The agreement between Last Chance Irrigation Co. and Mrs. Carol Reno (the owner, as sole trustee of Reno Living Trust) was executed on 2 March 2023, before the fence and grading plans were even started and a full six months before the fence/wall plans (25 Sep 2023) and grading plans (26 Sep 2023) were finalized. Similarly, the e-mail from Last Chance Ditch Co., stamped Dec 15 2022, was before the current plans were in development.

13 PWDM Section 3, paras 6 and 7

Require “inspection of reinforcing steel, forms, and falsework prior to placing of concrete” and “full-time inspection of all exposed concrete pours” ... “to evaluate compliance with the improvement plans of record.” None of these inspection requirements are listed on the plans. (Also, there is no inspection requirement on either plan to ensure that the property line survey required by the fence/wall plans is actually completed before construction begins.)

BATCH NO.
2024-00002455
RECEIPT NO.
2024-00120369
CASHIER
Gutierrez, Jennifer

CITY OF RENO

PAYMENT CODE		RECEIPT DESCRIPTION	TRANSACTION AMOUNT
6901		Copies/Miscellaneous 00100-0000-5780-1099 Other income \$68.00	\$68.00
		<div>Total Cash\$0.00 Total Check\$0.00 Total Charge\$68.00 Total Wire\$0.00 Total Other\$0.00 Total Remitted\$68.00 Change\$0.00 Total Received\$68.00</div>	
<div>CITY OF RENO 1 E 1ST STREET, 11TH FL RENO, NV 89501 7753342080 WWW.RENO.GOV</div> <div>Cashier: Jennifer G. Transaction 301921</div> <div>Total\$68.00 CREDIT CARD SALE\$68.00 VISA 4066</div> <div>Retain this copy for statement validation</div> <div>19-Dec-2023 11:30:21A \$68.00 Method: KEYED VISA XXXXXXXXXXXX4066 MANUALLY ENTERED Reference ID: 335300600943 Auth ID: 019882 MID: *****5997 AthNtwkNm: VISA</div> <div>*** REPRINT ***</div> <div>Payment NAW968FD3BJ28 Clover Privacy Policy https://clover.com/privacy</div>			
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