

Town Council

David Polivy, Mayor

Jan Zabriskie, Vice Mayor

Anna Klovstad, Council Member
Courtney Henderson, Council Member
Lindsay Romack, Council Member



Department Heads

Jen Callaway, Town Manager
Andy Morris, Town Attorney
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Daniel Wilkins, Public Works Director/Town Engineer
Denyelle Nishimori, Community Development Director
Nicole Casey, Administrative Services Director
Kelly Carpenter, Town Clerk
Hilary Hobbs, Assistant to the Town Manager

NOTICE AND ORDER TO ABATE

May 28, 2024

Ciro Mancuso
Hidden Lake Properties, Inc.
11050 Pioneer Trail, Suite 100
Truckee, CA 96161

RE: Notice and Order to Abate: Pioneer Commerce Center Building K-4; APN 019-700-025 (10730 Pioneer Trail)

Dear Mr. Mancuso:

Pursuant to Development Code Section 18.200.050.B (Initial Enforcement Action, Notice to Responsible Parties) you are hereby notified in writing that a Code violation is being maintained at 10730 Pioneer Trail/APN 019-700-025. The conditions which constitute Code violations are California Building Code and Town of Truckee Development Code violations described further below:

I. California Building Code (CBC) Violation

CBC Section 105.1 Required: Any owner or owner's authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the code official and obtain the required permit.

Staff finding: There was no issued building permit at the time of foundation installation or vertical construction as further identified in the "Timeline" section of Attachment #1.

II. Truckee Development Code (Municipal Code Article 18)

- (i) **Development Code Section 18.01.040. A. New land uses or structures, changes to land uses or structures:** It shall be unlawful, and a violation of this Development Code, for any person to establish, construct, reconstruct, alter or replace any use of land or structure, except in compliance with the requirements of Section 18.02.020 (Requirements for Development and New Land Uses) and Chapter 18.130 (Nonconforming Uses, Structures and Parcels).

(ii) **Development Code Section 18.02.020 – Requirements for Development and New Land Uses.**

A. Allowable use. The land use shall be identified by Article II (Zoning Districts and Allowable Land Uses) as being allowable in the zoning district applied to the site.

B. Permit requirements. Any land use permit required by this Development Code shall be obtained before the proposed use is constructed, otherwise established or put into operation, unless the proposed use is listed in Section 18.02.030 (Exemptions from Land Use Permit Requirements). The land use permit requirements of this Development Code are established by Article II (Zoning Districts and Allowable Land Uses).

C. Development standards. The use and/or structures shall comply with all other applicable requirements of this Development Code, including the development standards of Article II (Zoning Districts and Allowable Land Uses), the provisions of Article III (Site Planning and General Development Standards), and the regulations of chapter 18.130 (Nonconforming Uses, Structures, and Parcels).

D. Legal parcel. The use and/or structures shall only be established on a parcel of land which has been legally created in compliance with the Subdivision Map Act, Article V (Subdivisions), and Chapter 18.86 (Lot Line Adjustments), as applicable at the time the parcel was created. Development and Land Use Approval Requirements

E. Previous approvals and agreements. The use and/or structures shall comply with applicable provisions and requirements of any of the following permits, entitlements or agreements:

1. **Conditions of approval.** Any conditions of approval imposed by any land use permit previously granted by the County or Town and still in effect;
2. **Development Agreements.** Any Development Agreement approved by the Town in compliance with Chapter 18.150 (Development Agreements) and still in effect;
3. **Planned Developments.** Any conditions of approval or other provisions imposed by a Planned Development previously approved by the County or Town and still in effect; and
4. **Subdivisions.** Any conditions of approval, restrictions or other provisions imposed by a subdivision map previously approved by the County or Town and recorded in the Nevada County Recorder's Office except as set forth in Section 18.03.020.G.4.

Staff finding: There was no approved land use permit on APN 19-700-025 at the time of foundation installation or vertical construction.

This notice supersedes the Town's May 1, 2024 informal Notice of Violation (Attachment 1) and serves as the Town's formal notice to **abate the unpermitted construction described above on or before June 28, 2024.** Pursuant to Development Code Section 18.200.050.B.11, the informal notice was issued in accordance with the Town's standard practice of issuing informal notices before a formal notice and abatement order. As noted in Section 18.200.050.B.11, the Town utilizes this process with the expectation that it will save time, money and resources for all parties involved.

You are hereby ordered to (1) secure a demolition permit from the Town Building Division and to physically commence with deconstruction of all unpermitted vertical components (i.e.-steel framing); (2) to demolish the concrete foundation (i.e.-removal of all concrete and restoration of the site to pre-unpermitted foundation installation conditions); (3) to receive a final inspection by the Chief Building Official and; (4) to receive final sign-off on/approval of the demolition permit from the Town Building Division on or before June 28, 2024.

Disposal of any material(s) associated with this Code violation shall be conducted in a legal manner. The Chief Building Official may permit reuse of unpermitted erected steel framing components with sufficient evidence to demonstrate no damage occurred following installation of the unpermitted construction and/or during deconstruction. The Chief Building Official's formal determination will be made at the request of the property owner and within five working days of permitted demolition/deconstruction.

Be advised that I, under my Code Enforcement Director authority, may proceed to cause the work to be done and may bill the property owner, Ciro Mancuso, for the abatement costs and/or assess the costs against the property for failure to comply with this notice and abate the unpermitted construction/obtain, commence and complete the required unpermitted construction demolition by June 28, 2024.

Be advised that the Town may charge the property owner for all administrative costs associated with the abatement of the violations in compliance with Development Code Section 18.200.080 (Recovery of Costs), and/or initiate legal action as described in Development Code Section 18.200.070 (Legal Remedies).

Be advised that any person having an interest or record title in the property may request an administrative hearing of the notice and order or any action of the enforcement within 10 days from the date of service of the notice and order.

Be advised that at the time this notice and order is served or anytime thereafter, I may file in the Office of the County Recorder a certificate legally describing the property and certifying that a Code violation exists on the property and that the property owner has been so notified (i.e.- record a notice against the property in the Office of the County Recorder). I may then file a new certificate with the County Recorder which indicates that the Code violation has been abated whenever the following action has occurred:

- a. Corrections ordered have been completed so that a code violation or public nuisance no longer exists on the subject property as described in the original certificate;
- b. The notice and order is rescinded upon appeal; or
- c. Whenever the Town abates the nuisance and the abatement costs have been paid.

Be advised that you may request and be provided a meeting with me as Code Enforcement Director to discuss possible methods and time limits for the correction of the violations.

Appeal

Be advised that you have the right to appeal this determination to the Town Council in accordance with Development Code Chapter 18.200 (Enforcement). Pursuant to Development Code Section 18.200.050.F, a written appeal to Town Council shall be filed with the Town Planning Division, together with a filing fee (and appeal application form, included in this letter as Attachment #2), within 10 days from the date of mailing of this decision which is **by 5 p.m., Friday, June 7, 2024.**

If no appeal is filed within 10 days from the date of mailing of this notice, my action shall be deemed final.

If you have any questions about this Notice and Order to Abate, please feel free to contact me at (530) 582-2934 or by email at dnishimori@townoftruckee.com.

Sincerely,



Denyelle N. Nishimori
Community Development Director

Attachment #1 – May 1, 2024 Notice of Violation
Attachment #2 – Appeal Form

ATTACHMENT #1

Town Council

David Polivy, Mayor

Jan Zabriskie, Vice Mayor

Anna Klovstad, Council Member
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NOTICE OF VIOLATION

May 1, 2024

Ciro Mancuso
Hidden Lake Properties, Inc.
11050 Pioneer Trail, Suite 100
Truckee, CA 96161

RE: Notice of Violation: Pioneer Commerce Center Building K-4; APN 019-700-025 (10730 Pioneer Trail)

Dear Mr. Mancuso:

This letter serves as a Notice of Violation of California Building Code and Town of Truckee Development Code (Zoning Ordinance) requirements. The specified violations are:

I. California Building Code (CBC) Violation

CBC Section 105.1 Required: Any owner or owner's authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the code official and obtain the required permit.

Staff finding: There was no issued building permit at the time of foundation installation or vertical construction as further identified in the "Timeline" section below.

II. Truckee Development Code (Municipal Code Article 18)

(i) **Development Code Section 18.01.040. A. New land uses or structures, changes to land uses or structures:** It shall be unlawful, and a violation of this Development Code, for any person to establish, construct, reconstruct, alter or replace any use of land or structure, except in compliance with the requirements of Section 18.02.020 (Requirements for Development and New Land Uses) and Chapter 18.130 (Nonconforming Uses, Structures and Parcels).

(ii) **Development Code Section 18.02.020 – Requirements for Development and New Land Uses.**

A. Allowable use. The land use shall be identified by Article II (Zoning Districts and Allowable Land Uses) as being allowable in the zoning district applied to the site.

B. Permit requirements. Any land use permit required by this Development Code shall be obtained before the proposed use is constructed, otherwise established or put into operation, unless the proposed use is listed in Section 18.02.030 (Exemptions from Land Use Permit Requirements). The land use permit requirements of this Development Code are established by Article II (Zoning Districts and Allowable Land Uses).

C. Development standards. The use and/or structures shall comply with all other applicable requirements of this Development Code, including the development standards of Article II (Zoning Districts and Allowable Land Uses), the provisions of Article III (Site Planning and General Development Standards), and the regulations of chapter 18.130 (Nonconforming Uses, Structures, and Parcels).

D. Legal parcel. The use and/or structures shall only be established on a parcel of land which has been legally created in compliance with the Subdivision Map Act, Article V (Subdivisions), and Chapter 18.86 (Lot Line Adjustments), as applicable at the time the parcel was created. Development and Land Use Approval Requirements

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4. **Subdivisions.** Any conditions of approval, restrictions or other provisions imposed by a subdivision map previously approved by the County or Town and recorded in the Nevada County Recorder's Office except as set forth in Section 18.03.020.G.4.

Staff finding: There was no approved land use permit on APN 19-700-025 at the time of foundation installation or vertical construction as further identified in the "Timeline" section below.

Timeline

This staff-prepared timeline details all dates and actions in support of the CBC and Development Code violations and serves as further findings in support of the Notice of Violation:

- July 6, 2023 – building permit application submitted to the Building Division
- July 10, 2023 – notification provided by the Town that the building application was not accepted for processing due to the expired land use permit (Planning Application No. 2016-00000035)
- July 27, 2023 – letter provided to the Planning Division by project agent requesting Community Development Director approval to proceed under the 2016-00000035 permit
- August 1, 2023 – Community Development Director emailed confirmation that land use permit 2016-00000035 is expired and that submittal of a new land use permit would be required
- August 3, 2023 – new land use permit application submitted to the Planning Division
- August 7, 2023 – land use permit application fee submitted and application was accepted by the Planning Division for processing
- September 5, 2023 – land use application routed to partner agencies and special districts for comments
- September 19, 2023 – end of routing comment period; staff reached out to agencies that had not yet provided comments/agency requirements
- September 25, 2023 – routing comments forwarded to project agent; agent notified of October Planning Commission hearing date

- October 2, 2023 – Planning Division mailed notices to surrounding property owners/Sierra Sun newspaper of the October 17, 2023 Planning Commission hearing
- October 12, 2023 – land use application staff report published
- October 16, 2023 – unpermitted work on APN 19-700-025 (project site) observed by Town staff during pre-Planning Commission meeting site inspection
- October 17, 2023 – stop work order posted on-site by Town Code Compliance; Planning Commission took action to continue review of the project due to the active code case. This was per Development Code:
 - **Development Code Section 18.200.080.F.3.** – Any property owner notified of a Code violation shall correct the violation before issuance, processing, approval or completion, as appropriate, of any discretionary permit application; and
 - **Development Section 18.200.040.D** - In addition, the Code Enforcement Director may withhold the processing of and/or issuance of any and all ministerial permits and discretionary land use permits, where a documented Code violation(s) exists, until the subject property is found to be in complete compliance with any and all applicable Code sections.
- October 18, 2023 – Chief Building Official and Community Development Director met with Ciro Mancuso on-site
- October 20, 2023 – Chief Building Official initiated investigation via email inquiry to Ciro Mancuso and requested the submission of additional information by Ciro Mancuso in support of the investigation
- October 20-November 1, 2023 – Investigation inquiry responses provide by email to Chief Building Official from Ciro Mancuso
- November 9, 2023 – Ciro Mancuso notified by Chief Building Official that vertical portion of the unpermitted construction is required to be disassembled
- February 12, 2024 – letter to the Town opposing Chief Building Official requirement to deconstruct the vertical unpermitted construction submitted by Ciro Mancuso
- February 28, 2024 – letter to Town on behalf of Ciro Mancuso submitted by Stoel Rives LLP acknowledging impasse regarding resolution of the Town's enforcement of unpermitted work at 19-700-025; response from Town Manager acknowledging that Ciro Mancuso is unwilling to dismantle the structure and advising the Town would be contacting the Contractor's State Licensing Board (CSLB) and that an abatement notice could be issued pending guidance from the State.
- March 14, 2024 – Chief Building Official initiated complaint with CSLB
- April 11, 2024 - It is the Town's understanding that the CSLB is currently investigating the unpermitted construction and that they may take additional action(s) depending on the conclusions of the investigation.

Notice of Violation Correction Required


The Chief Building Official finds that unpermitted construction, including foundation installation and vertical construction, occurred, was never inspected by the Town, has yet to be abated, and requires demolition/deconstruction. The Town previously notified you that the unpermitted construction for a boat storage building occurred without an approved land use permit and issued building permit and as of the date of this letter, the unpermitted construction and violations remain.

You are hereby notified that you have 15 days from the date of this letter (i.e.-no later than May 16, 2024) to obtain a demolition permit and initiate removal of all unpermitted construction, including all vertical components and the foundation. The unpermitted construction shall be remedied in full, meaning all unpermitted construction is removed from the site and the site is inspected by the Chief Building Official **no later than June 17, 2024**. You are encouraged to work with the Town to remedy the violations. Failure to comply with this Notice of Violation will result in

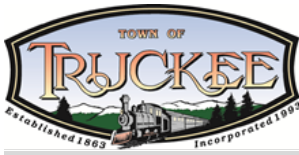
the issuance of an Order of Abatement and other code enforcement action that will continue to delay the ability to legally construct the boat storage building.

If you have any questions about this Notice of Violation, please feel free to contact me at (530) 582-2934 or by email at dnishimori@townoftruckee.com.

Sincerely,



Denyelle N. Nishimori
Community Development Director

**APPEAL APPLICATION FORM****DEPARTMENT USE ONLY**

APPLICATION NUMBER: _____ - _____ CDD FEE COLLECTED: \$ _____

APPEAL TYPE

_____ Appeal to Planning Commission

_____ Appeal to Town Council

APPELLANT TO COMPLETE

APPELLANT NAME(S) _____

APPELLANT EMAIL _____ PHONE _____

APPELLANT ADDRESS _____ CITY _____ STATE ____ ZIP _____

AGENT NAME(S) _____

AGENT EMAIL _____ PHONE _____

AGENT ADDRESS _____ CITY _____ STATE ____ ZIP _____

NAME OF PROJECT BEING APPEALED _____

APPLICATION NUMBER OF PROJECT BEING APPEALED _____

PROJECT ADDRESS _____ ASSESSOR'S PARCEL NO. _____

APPELLANT'S SIGNATURE _____ DATE _____

If more than one appellant is listed on the application, please provide a list of appealing parties on a separate sheet.