

CLARK COUNTY BOARD OF COMMISSIONERS
ZONING / SUBDIVISIONS / LAND USE
AGENDA ITEM

Petitioner: Sami Real, Director, Department of Comprehensive Planning

Recommendation: ORD-24-900546: Introduce an ordinance to consider adoption of a Development Agreement with Fort Apache, LTD for a multi-family residential development on 9.1 acres, generally located west of Fort Apache Road and south of Pebble Road within Enterprise. JJ/dw (For possible action)

FISCAL IMPACT:

None by this action.

BACKGROUND:

The Board of County Commissioners (Board) approved a land use application WS-24-0059 for a multi-family residential development on 9.1 acres, generally located west of Fort Apache Road and south of Pebble Road within Enterprise. Conditions of approval included the developer and/or owner entering into a Development Agreement prior to any permits being issued in order to provide their fair-share contribution towards public infrastructure necessary to provide service in the southwest portion of the Las Vegas Valley.

In accordance with the provisions of Section 278.0203 of the Nevada Revised Statutes, a Development Agreement must be approved by ordinance.

Staff recommends the Board set a public hearing for November 20, 2024.

BILL NO. _____

SUMMARY - An ordinance to adopt the Development Agreement with Fort Apache, LTD for a multi-family residential development on 9.1 acres, generally located west of Fort Apache Road and south of Pebble Road within Enterprise.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH FORT APACHE, LTD FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT ON 9.1 ACRES, GENERALLY LOCATED WEST OF FORT APACHE ROAD AND SOUTH OF PEBBLE ROAD WITHIN ENTERPRISE AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with the provisions of Section 278.0203 of the Nevada Revised Statutes and Chapter 30.06 of the Clark County Code, the Development Agreement with Fort Apache, LTD for a multi-family residential development on 9.1 acres, generally located west of Fort Apache Road and south of Pebble Road within Enterprise, is hereby adopted.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks and shall be effective on and from the fifteenth day after passage.

PROPOSED on the _____ day of _____, 2024

INTRODUCED by: _____

PASSED on the _____ day of _____, 2024

VOTE:

AYES: _____

NAYS: _____

ABSTAINING:

ABSENT:

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
TICK SEGERBLOM, Chair

ATTEST:

Lynn Marie Goya, County Clerk

This ordinance shall be in force and effect from and after the _____ day of _____ 2024.

APN(s): 176-19-501-006, -007, -008, & -025
Please Return to: Sami Real
Comprehensive Planning Department
1st Floor, Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada 89155

DEVELOPMENT AGREEMENT

BETWEEN

THE COUNTY OF CLARK

AND

FORT APACHE, LTD

FOR

PEBBLE & FORT APACHE

ORD-24-900546

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into by and between the *County of Clark, State of Nevada* (hereinafter referred to as the "County") and **FORT APACHE, LTD** the Owner of the real property described on Exhibit "A" attached hereto (hereinafter referred to as the "Owner") and incorporated herein by reference.

SECTION 1 – DEFINITIONS

1.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "Agreement" has the meaning assigned to it in the first paragraph hereof. Agreement at any given time includes all addenda and exhibits incorporated by reference and all amendments, which have become effective as of such time.
- (b) "Applicable Rules" means the specific code, ordinances, rules, regulations and official policies of the County as adopted and in force at the time of permit issuance or map recordation and as amended from time to time, regarding planning, zoning, subdivisions, timing and phasing of development, permitted uses of the Subject Property, density, design, and improvement standards and specifications applicable to the Project, including the Public Facilities Needs Assessment Report, and the fees incorporated herein, except that:
 - (1) The fees required in the County Code specifically for the Major Projects shall *not* apply to the Project, unless and until the parties agree that the development of the Project will be processed as a Major Project;
and
 - (2) The zoning established by the Concurrent Approvals will not be amended or modified during the term of this Agreement without Owner's prior written approval.
- (c) "Best Efforts" means, in the case of any contingent obligation of County or Owner, that the party so obligated will make a good faith effort to accomplish the stated goal, task, project or promised performance, provided such term does not imply a legal obligation to take any specific action if:
 - (i) In the case of a County obligation, such action would, in the reasoned opinion of the County Commission, be imprudent given competing public needs and projects; or
 - (ii) In the case of an Owner obligation, such action would, in the reasoned opinion of the Owner, be commercially unreasonable.

In either case, upon request, the responsible party shall give written notice to the other party that it has considered such contingent obligation and the reason for its decision not to perform.

- (d) "Builder" means any person or entity, which constructs final improvements (other than off-site improvements or infrastructure) with respect to a subdivision or parcel of the Subject Property.
- (e) "Code" means the Clark County Code, including all rules, regulations, standards, criteria, manuals and other references adopted herein.
- (f) "Concurrent Approvals" means the zoning, land use or map approvals and authorizations, relating to the Subject Property, together with the applicable conditions, as granted by the County Commission, including without limitation those approvals and conditions of

approval per **WS-24-0059**, the Agenda Sheet, Notice of Final Action and agenda map attached hereto as Exhibit "C" and incorporated herein by this reference.

- (g) "County" means the County of Clark, State of Nevada together with its successors and assigns.
- (h) "County Commission" means the Board of County Commissioners or Planning Commission of the County of Clark, State of Nevada.
- (i) "County Master Plan" means the comprehensive plan adopted by the County Commission in 1983 and all amendments thereto including, but not limited to, all adopted land use, development guides and elements, including the land use and development guide and the general plan map for unincorporated portions of the Las Vegas Valley adopted by the County Commission on January 24, 1974, except as amended by the adoption of more recent plans in effect as of the Effective Date.
- (j) "Development Agreement Ordinance" means an ordinance adopted per Chapter 30.06 of the Clark County Unified Development Code (Title 30) along with any other Chapters of the Clark County Code that are relevant to the Development Agreement being considered.
- (k) "Effective Date" means the date, on or after the adoption by the County Commission, of an ordinance approving execution of this Agreement whereas the Agreement has been executed and signed by both parties, that this Agreement is recorded in the Office of the County Recorder of Clark County, Nevada.
- (l) "NDOT" means Nevada Department of Transportation.
- (m) "NRS" means Nevada Revised Statutes.
- (n) "PFNA" means the Southwest Las Vegas Valley Public Facilities Needs Assessment Report, dated December 1, 2000, incorporated herein by this reference and approved by the County Commission on January 2, 2001.
- (o) "Project" means the Subject Property and the proposed development of the Subject Property described in this Agreement.
- (p) "Subject Property" means that certain real property, which Owner owns or has the right to acquire, located in the County and more particularly described on Exhibit "A".
- (q) "Term" means the term of this Agreement together with any extension agreed upon pursuant to Section 7.02 hereof.

SECTION 2 – RECITAL OF PREMISES, PURPOSE AND INTENT

2.01 Recitals. This Agreement is predicated upon the following facts and findings:

- (a) Statutory Authorization. The County is authorized, pursuant to NRS §278.0201 through 278.0207, inclusive, to enter into binding Development Agreements with persons having a legal or equitable interest in real property to establish long range plans for the development of such property.
- (b) Ownership Interest. Owner represents that it has, will acquire, or has the right to acquire, fee title ownership of the Subject Property.
- (c) County Authorization, Hearing and Ordinance. All preliminary processing with regard to the Project has been duly completed in conformance with all applicable laws, rules and regulations. The County Commission, having given notice as required by law, held a public hearing on Owner's application seeking approval of the form of this Agreement and the execution hereof by the County. At the described meeting, the County Commission found that this Agreement is consistent with the County's plans, policies and regulations, including the County Master Plan, that the Agreement meets the requirements of Title 30 of the Code, and that the execution hereof by and on behalf of the County is in the public interest and is lawful in all respects. During the same meeting at which the public hearing was held, the County Commission adopted the Ordinance approving this Agreement and authorizing the execution hereof by duly constituted officers of the County. Said ordinance was scheduled to be effective two weeks after adoption. County agrees to record a certified copy of the ordinance as required by NRS §278.0207.
- (d) County Intent. The County desires to enter into this Agreement in conformity with the requirements of NRS, and as otherwise permitted by law, and this Agreement to provide for public services; public uses and urban infrastructure; to promote the health, safety and general welfare of the County and its inhabitants; to minimize uncertainty in planning for and securing orderly development of the Project and surrounding areas; to insure attainment of the maximum efficient utilization of resources within the County at the least economic cost to its citizens; and to otherwise achieve the goals and purposes for which the State statute and County ordinance authorizing Development Agreements were enacted.
- (e) Owner Intent. In accordance with the legislative intent evidenced by NRS §278.0201 through §278.0207, inclusive, authorizing Development Agreements and the intent of the County in adopting an ordinance allowing Development Agreements, Owner wishes to obtain reasonable assurances that Owner may develop the Project in accordance with the conditions established in this Agreement. Owner acknowledges that there are insufficient public services, which includes facilities and infrastructure, existing or planned at this time. In order to develop the Subject Property, Owner is willing to enter into this Development Agreement in order to pay Owner's fair share of the costs to provide certain public services, facilities, and infrastructure in the area of this Project. Owner further acknowledges that this Agreement was made a part of the County Record at the time of its approval by the County Commission and that the Owner agrees without protest to the requirements, limitations, or conditions imposed by this Agreement and the Concurrent Approvals.
- (f) Acknowledgment of Uncertainties. The parties acknowledge that circumstances beyond the control of either party could defeat their mutual intent that the Project be developed in the manner contemplated by this Agreement. Among such circumstances is the unavailability of

water or other limited natural resources, federal regulation of air and water quality, and similar conditions. Owner recognizes that water shortages could affect the County's ability to perform its obligations hereunder. Owner further acknowledges and agrees this Agreement does not relieve the Owner from compliance with existing, changed, modified or amended rules regulations, laws, ordinances, resolutions, fees codes, etc., of other governmental agencies. Such rules, regulations, laws, ordinances, resolutions, fees, codes, etc. of governmental entities must be complied with by the Owner and are not locked in nor a part of this Agreement. It is not the intent of the parties nor shall this Section be construed as excusing the County of any obligation hereunder or depriving Owner of any right under this Agreement, which can be performed.

(g) Provision of Water and Sewer Service. Owner clearly understands and agrees that, amongst other requirements, water commitment and sanitary sewer system development approval must be obtained from the proper governmental entities namely the Las Vegas Valley Water District and the Clark County Water Reclamation District. Fees and services for such commitments and systems are established by said governmental entities and must be paid and complied with by the Owner in accordance with said governmental entities requirements as amended from time to time. This Agreement or the County does not guarantee or provide the provision of water and sewer services.

2.02 Incorporation of Recitals. The foregoing recitals shall be deemed true and correct in all respects with respect to this Agreement and shall serve as the basis for the interpretation of this Agreement.

2.03 Permitted Uses, Density, Height and Size of Structures. Pursuant to NRS §278.0201 and the Code, this Agreement must set forth the maximum height and size of structures to be constructed on the Subject Property, the density of uses and the permitted uses of the land. County agrees the Project may be developed to the density and with the land uses set forth in the Land Use and Development Guide/Plan, along with the development standards set forth in the Concurrent Approvals and the Applicable Rules.

SECTION 3 – DEVELOPMENT OF THE PROJECT

3.01 Time for Construction and Completion of the Project. Subject to the terms of this Agreement and Applicable Rules, Owner shall have discretion as to the time of commencement, construction, phasing, and completion of any and all development of the Project. Nothing herein shall be construed to require the Owner to develop the Project or any part thereof.

3.02 Reliance on Concurrent Approvals and Applicable Rules. County hereby agrees that Owner will be permitted to carry out and complete the entire Project in accordance with the uses and densities set forth in the Concurrent Approvals subject to the terms and conditions of this Agreement and the Applicable Rules. Pursuant to the terms of this Agreement and subject to Owner's infrastructure obligations described in this Agreement, the development of the Project may proceed.

3.03 Air Quality Conformity. Owner acknowledges County has adopted an air quality plan and agrees to comply with the applicable provisions thereof, including any state and federal rules and regulations.

3.04 Dust Mitigation. Owner will educate Builders and contractors within the Project of the applicable rules of the Clark County Department of Air Quality & Environmental Management with respect to dust mitigation and will encourage compliance therewith.

3.05 Water Conservation. Owner agrees to encourage water conservation in the Project. Owner agrees to design any open space using the best available, water conserving techniques, including but not

limited to proper soil preparation and water conserving irrigation systems and equipment. Landscaping adjacent to public streets shall be limited to water conserving plant materials.

- 3.06 Temporary Storm Water Construction Permit. Owner agrees to educate Builders and contractors within the Project on the requirements for a Temporary Storm Water Construction Permit issued from the Nevada Division of Environmental Protection (NDEP).

SECTION 4 – PUBLIC FACILITIES

- 4.01 Public Facilities. Owner agrees that prior to issuance of any building permit for a single family dwelling, multiple family dwelling, retail, office, industrial or hotel use in the Project, they will pay the fees as set forth in the Public Facilities Chart below, hereinafter referred to as Chart 4.01-A, except as modified by this Section 4.01.

In addition, the fees set forth in Chart 4.01-A below may be increased or decreased from time to time during the term of this Agreement if the modified fees are uniformly applied to all development and construction within the Public Facilities Needs Assessment area. The County and Owner agree that any fee modifications shall be applied only for building permits not yet issued. Owner and the County will not be entitled to any payment or reimbursements for fees paid for building permits issued prior to any such fee modification.

CHART 4.01-A PUBLIC FACILITIES CHART			
Type Of Development	Infrastructure Category		Total Per Unit
	Parks	Public Safety	
Single Family Dwelling Unit (per dwelling unit)	\$ 609.90	\$ 1,030.91	\$ 1,640.81
Multi Family Dwelling Unit (per dwelling unit)	\$ 609.90	\$ 1,010.80	\$ 1,620.70
Retail (per square foot gross floor area)	N/A	\$ 0.69	\$ 0.69
Office (per square foot gross floor area)	N/A	\$ 0.77	\$ 0.77
Industrial (per square foot gross floor area)	N/A	\$ 0.46	\$ 0.46
Hotel (per room)	N/A	\$ 1,032.58	\$ 1,032.58

- 4.02 Parks. In addition to the fees in Chart 4.01-A above, Owner agrees that this development is subject to the Residential Construction Tax if required by Chapter 19.05 of the Clark County Code.

- 4.03 Traffic Study. Owner shall prepare and submit to the County (and NDOT if applicable) a Traffic Study (if required) acceptable to the County (and NDOT if applicable) for the Subject Property prior to submittal of any final map for technical review, or prior to County issuance if any grading or building permits; whichever occurs first, and Owner agrees to comply with said Study as approved by the County. Any modification to the Traffic Study must be approved by the Director of the Department of Public Works.

In addition to the fees in Chart 4.01-A above, Owner agrees to construct at its sole cost and expense and dedicate to the County (or NDOT if applicable) any such roadway and traffic improvements identified in the Traffic Study as approved with conditions by the County (and NDOT if applicable), which are necessary for the Subject Property or for the mitigation of any traffic impacts caused by the development of the Subject Property.

Each facility must be built in the manner prescribed by the Code, NRS, and in accordance with the, “Uniform Standard Drawings for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada”, as amended by the Concurrent Approvals as approved by the County, and the State’s Design Manual prior to issuance of any building permits for the area impacted by the facilities, as identified in the Traffic Study as approved with conditions by the County (an NDOT if applicable).

Nothing herein shall be construed to require Owner to construct the applicable traffic improvements if Owner does not develop the impacted area. Owner acknowledges it shall be responsible for all public and private roadway construction (if applicable), utility installations and modifications, lighting, traffic control equipment and signage, and aesthetic improvements relating to the development.

- 4.04 Drainage Study. Owner shall prepare and submit to the County a Drainage Study, if required by the Clark County Department of Public Works, acceptable to the County for the Subject Property prior to recording any final map or the issuance of any grading and/or building permits. In addition to the fees in Chart 4.01-A above, Owner agrees to construct at its sole cost and expense and dedicate to the County such flood and drainage facilities identified in the Drainage Study which are necessary for the flood protection of the Subject Property or for the mitigation of any downstream flood impacts caused by the development of the Subject Property.

Each facility must be built, in the manner prescribed by Code, prior to issuance of any grading and/or building permits for the area impacted by the facilities as identified in the approved Drainage Study in accordance with Code. Notwithstanding any other provision in this section no grading or building permit shall be issued in any area not protected by the drainage facilities identified in the approved Drainage Study.

SECTION 5 – REVIEW AND DEFAULT

- 5.01 Frequency of Reviews. As required by NRS §278.0205 and the Development Agreement Ordinance, at least once every twenty-four (24) months during the Term of this Agreement, Owner shall provide and County shall review in good faith a report submitted by Owner documenting the extent of Owner's and County's material compliance with the terms of this Agreement during the preceding twenty-four (24) months. If at the time of review an issue not previously identified in writing is required to be addressed, the review, at the request of either party, shall be continued to afford sufficient time for response.

- 5.02 Opportunity to be Heard. County and Owner shall be permitted an opportunity to be heard orally and in writing before the County Commission regarding their performance under this Agreement in the manner set forth in Development Agreement Ordinance.

- 5.03 Procedures in the Event of Noncompliance. In the event of any noncompliance with any provision of this Agreement, the party alleging such noncompliance shall deliver to the other in writing a courtesy notice, not less than thirty (30) calendar days prior to declaring a default under this Agreement. The time of notice shall be measured from the date of post mark which may be sent by regular mail.

The courtesy notice shall state the reason for noncompliance, any action necessary to correct the noncompliance, specify the nature of the alleged default and, where appropriate, the manner and period of time in which the noncompliance may be satisfactorily corrected. During the period of time the default letter is pending, the party alleged to be in default shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is corrected, then no default shall exist and the noticing party shall take no further action. If the default is not corrected within thirty (30) calendar days, the following courses of action shall apply:

- (a) County Procedures

- (i) Intent to Remedy Noncompliance. After proper notice and the expiration of the above-referenced periods for correcting the alleged default, the Director of

Development Services, or his or her designee, may do one or both of the following options:

- (1) Immediately direct County staff to recommend that all future zoning, land use, and mapping applications within the Project be conditioned so that the building permits to be issued as a result of those approvals shall not be issued until the default is corrected, or;
 - (2) Issue a letter providing notice of County's intent to set the matter for hearing before the County Commission. The letter shall notify Owner of the action taken. In the event the County selects this option, County shall give Owner at least seven (7) business days notice to correct the default before the matter is scheduled for a hearing. The letter notifying Owner of the hearing shall contain the intended hearing date. The seven (7) business days will be measured from the date of the certified mailing of the notice.
 - (ii) Hearing Schedule. If the default is not corrected within the time specified above, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission on the next available Commission zoning agenda.
 - (iii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by Owner and the default remains uncorrected, the County Commission may authorize the suspension of building permits within the Project or may amend or terminate this Agreement. Termination shall not in any manner rescind, modify, or terminate any Vested Right in favor of Owner, existing or received, as of the date of the termination. Owner shall have twenty-five (25) calendar days after the date of notice of the County Commission's decision is filed with the Clark County Clerk, Commission Division, to institute legal action pursuant to Sections 5.05 and 5.06 hereof, to determine whether the County Commission abused its discretion in determining whether a default existed and remained uncorrected.
- (b) Owner Procedures
- (i) After proper notice and the expiration of the above-referenced periods for correcting the alleged default, Owner may issue a letter requesting a hearing before the County Commission for review of the alleged default. Upon receipt of the letter, County shall schedule an item to consider the alleged default on the next available Commission zoning agenda.
 - (ii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by County and remains uncorrected, the County Commission shall direct County staff to correct the default. Owner shall have twenty-five (25) calendar days after the date of notice of the County Commission's decision is filed with the Clark County Clerk, Commission Division, to institute legal action pursuant to this Section hereof to determine whether the County Commission abused its discretion in determining whether a default existed and remained uncorrected.
- (c) Waiver. Failure or delay in giving any notice provided for herein shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceeding which it may deem necessary to protect, assert, or enforce any of its right or remedies.

(d) Notices. All notices provided for herein shall be sent to and in the manner provided in Section 7.08 of this Agreement.

5.04 Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged default, the party alleging the default shall give notice of intent to amend or terminate this Agreement pursuant to NRS §278.0205 (the "Notice of Intent"), with notices sent in the manner provided by Section 7.08 of this Agreement. Following any such Notice of Intent, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission.

5.05 Unavoidable Delay or Default, Extension of Time for Performance. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, acts of terrorism, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by governmental entities, failure of governmental agencies (other than County) to perform acts or deeds necessary for the performance of this Agreement, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations, litigation, or similar matters beyond the control of the parties. If written notice of any such delay is given to County within thirty (30) calendar days after the commencement thereof, an automatic extension of time, unless otherwise objected to by County within ten (10) business days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between County and Owner.

5.06 Institution of Legal Action. The County and Owner agree that the County would not have entered into this Agreement if it were liable for damages under or with respect to this Agreement. Accordingly, the County and the Owner may pursue any remedy at law or equity available for breach, except that neither the Owner nor the County shall be liable to the other or to any other person or entity for any monetary damages whatsoever. Prior to the institution of any legal action, the party seeking legal action must give the thirty (30) day notice of default as set forth in Section 5.03. Following such notice, a public hearing must be held by the County Commission where the allegations will be considered and a decision regarding their merits will be reached. Any judicial review of the County Commission's decision or any legal action taken pursuant to this Agreement will be heard by a Court under the standard review appropriate to Court review of zoning actions, and the decision of the County Commission shall be overturned or overruled if its decision is clearly arbitrary and capricious. Judicial review of the decision of the County Commission shall be limited to the evidence presented to the County Commission at the public hearing. If a party desires to present new or additional evidence to the Court, such party may petition the Court to remand the matter to the County Commission to consider the additional or new evidence. Jurisdiction for judicial review or any judicial action under this Agreement shall rest exclusively with the Eighth Judicial District Court, State of Nevada.

5.07 Applicable Laws. This Agreement shall be construed and enforced in accordance with the law of the State of Nevada.

SECTION 6 – CONFLICTING LAWS

6.01 Conflicting State or Federal Rules. In the event that any conflicting state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the County,

this Agreement shall remain in full force and effect as to those provisions not affected, and the conflicting laws or regulations shall not be applied retroactively, and:

- (a) Notice and Copies. Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy or an account of any such action or inaction together with a statement of how any such matter conflicts with the provisions of this Agreement; and
- (b) Modification Conferences. The parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation, or accommodate any such action or inaction.

6.02 County Commission Hearings. In the event the County believes that an amendment to this Agreement is necessary pursuant to this Section 6 due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the County Commission. The County Commission shall determine the exact nature of the amendment or suspension necessitated by such federal or state law or regulation or action or inaction. Owner shall have the right to offer oral and written testimony at the hearing. Any suspension or modification ordered by the County Commission pursuant to such hearing is subject to judicial review as set forth in Section 5.06. The parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

6.03 Cooperation in Securing Permits. The County shall use its Best Efforts to cooperate with Owner in securing any County permits, licenses or other authorizations which may be required as a result of any amendment or suspension resulting from actions initiated under this Section 6. Owner will be responsible to pay all applicable fees in connection with securing of the permits.

SECTION 7 – GENERAL PROVISIONS

7.01 Enforcement and Binding Effect. Subject to the limitations of NRS §278, this Agreement is enforceable by either party in accordance with its terms notwithstanding any change (which, except for this Agreement, would otherwise be applicable) in any of the Applicable Rules. Nothing in this Agreement shall prevent the County from increasing "cost based fees" which are deemed to be administrative fees for issuance of land use approvals, building permits, plan checks, or inspections which are based upon actual costs to the County and which are uniformly applied to all development and construction subject to the County's jurisdiction. "Cost based fees" do not include the fees addressed in Section 4.01 of this Agreement.

7.02 Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the date the land use application expires or upon the eighth (8th) anniversary of the Effective Date, or when all obligations hereunder are satisfied, whichever occurs earliest, unless extended by written agreement executed by County and Owner.

7.03 Assignment.

- (a) Transfer Not to Relieve Owner of its Obligation. Except as expressly provided herein, no assignee or transferee of any portion of the Project within the area covered by a recorded subdivision map shall be subject to the obligations of Owner as to the portion of the Project so assigned or transferred nor be deemed to have assumed all such obligations, and such assignment or transfer shall not relieve Owner of its obligation as to the assigned or transferred portion of the Project.

- (b) Transfer to an Affiliate of Owner. The rights of Owner under this Agreement may be freely transferred or assigned to any entity, partnership, or corporation, which Owner controls, or in which Owner has a controlling interest, or which controls Owner; provided, such entity shall assume in writing all obligations of Owner hereunder.
- (c) Third Party Assignment. The rights and obligations of Owner under this Agreement may be freely transferred or assigned to a third party not affiliated with Owner, provided such third party assumes in writing all obligations of Owner hereunder as to the assigned or transferred portion of the Project along with a copy of the sale, transfer, conveyance, or assignment agreement wherein the third party assumes the obligations of the Owner. Upon any such assignment hereunder, the Owner shall be relieved of all obligations and liabilities under or in connection with this agreement. In connection with the conveyance of any portion of the property, Owner shall provide County with written notice of any sale, transfer, conveyance or assignment of any unimproved portion of the Project.
- (d) Financial Transactions. Owner has full discretion and authority to transfer, assign or encumber the Project or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transaction at any time and from time to time without permission of or notice to County.

7.04 Amendment or Cancellation of Agreement. Except as otherwise permitted by NRS §278.0205 and Section 5 of this Agreement, this Agreement may be amended from time to time or canceled only upon the mutual written agreement of the parties hereto; provided however, that to the extent this Agreement expires pursuant to Section 7.02 above.

7.05 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, Owner shall hold County, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Owner or those of its contractors, subcontractors, agents, employees, or other persons acting on Owner's behalf which relate to the development of the Project. Owner agrees to and shall defend County and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of Owner's activities in connection with the development of the Project. Owner agrees to indemnify, hold harmless, and provide and pay all costs for a defense for County in any legal action filed in a court of competent jurisdiction by a third party challenging the validity of this Agreement. The provisions of this Section shall not apply to the extent such damage, liability, or claim is solely caused by the intentional or negligent act of County, its officers, agents, employees, or representatives.

7.06 Binding Effect of Agreement. Subject to Section 7.03 hereof, the burdens of this Agreement bind, and the benefits of this Agreement inure to the parties' respective successors in interest.

7.07 Relationship of Parties. It is understood that the contractual relationship between County and Owner is such that Owner is an independent contractor and not an agent of County for any purpose.

7.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or sent by overnight courier or mailed by certified mail postage prepaid, return receipt requested. Notices shall be sent to the address on file to Owner and/or Applicant, as shown on "Exhibit B" and the Comprehensive Planning Department and Office of the District Attorney-Civil Division addressed as follows:

To County: COUNTY OF CLARK
Department of Comprehensive Planning, Current Planning Division
Clark County Government Center
500 South Grand Central Parkway, 1st Floor
P.O. Box 551741
Las Vegas, NV 89155-1741

With a Copy to: COUNTY OF CLARK
OFFICE OF THE DISTRICT ATTORNEY-CIVIL DIVISION
Clark County Government Center
500 South Grand Central Parkway, 5th Floor
P.O. Box 552215
Las Vegas, Nevada 89155-2215

Either party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the delivery date by overnight courier or mail is first attempted.

- 7.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 7.10 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers of the County or Owner, as the case may be.
- 7.11 Recording Amendments. Promptly after the Effective Date, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of County and Owner in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon the completion of performance of this Agreement or its earlier revocation or termination, a statement evidencing said completion or revocation signed by appropriate officers of County and Owner shall be recorded in the Official Records of Clark County, Nevada.
- 7.12 Release. Each unit within the Subject Property shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of an Occupancy Permit for the building in which the unit is located.
- 7.13 Headings, Exhibits, Cross-references. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement and the recitals at the front of this Agreement are incorporated herein by the references thereto contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to Sections and Exhibits shall be to Sections and Exhibits of or to this Agreement, unless otherwise specified.
- 7.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such term does not materially impair the parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal

or incapable of being enforced, the parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the parties.

- 7.15 Voluntary Agreement. Owner acknowledges that they had the option of conducting their own public facilities needs assessment study, but instead voluntarily chose to accept the findings, conclusions and fee schedule contained within the County PFNA defined in Section 1.01(n) of this Agreement. Owner further acknowledges and agrees that it voluntarily, willingly and without protest and duress freely enters into this Agreement and accepts the terms and conditions herein.
- 7.16 No Third Party Beneficiary Rights. This Agreement shall inure solely to the benefit of each party hereto and its successors and permitted assigns and nothing in this Agreement, express or implied, shall confer upon any other person or entity, including the public or any member thereof, any rights, benefits or remedies of any nature whatsoever.

[signatures appear on following page]

IN WITNESS WHEREOF, this Agreement has been executed by the parties to be effective on the date described in Section 1.01(k).

COUNTY:

BOARD OF COUNTY COMMISSIONERS,
COUNTY OF CLARK, STATE OF NEVADA

Attest:

By: _____
Tick Segerblom, Chair

Lynn Marie Goya, County Clerk

OWNER:
FORT APACHE, LTD
PRINT OWNER NAME

ENTITY NAME:
FORT APACHE, LTD
PRINT ENTITY NAME

By: Bert Adams
Owner Signature

ACKNOWLEDGMENT:

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

This instrument was acknowledged before me on the 1st day of October, 2024,

by Bert Adams
(Printed Name of Document Signer)

NOTARY PUBLIC

May Valenzuela
Signature

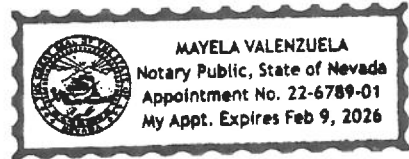


Exhibit "A"
Legal Description

(see next page for attachment)

**EXHIBIT A
LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED LAS VEGAS, IN THE COUNTY OF CLARK, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1: (176-19-501-006)

THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST M.D.M., IN THE COUNTY OF CLARK.

PARCEL 2: (176-19-501-007)

THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST M.D.M., IN THE COUNTY OF CLARK.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO CLARK COUNTY BY DEED RECORDED APRIL 13, 2023 IN BOOK 20230413, AS INSTRUMENT NO., 0001378, OFFICIAL RECORDS, CLARK COUNTY.

PARCEL 3: (176-19-501-008)

THE SOUTHWEST QUARTER (SW $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST M.D.M., IN THE COUNTY OF CLARK.

PARCEL 4: (176-19-501-025)

THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST M.D.M., IN THE COUNTY OF CLARK.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO CLARK COUNTY BY DEED RECORDED APRIL 13, 2023 IN BOOK 20230413, AS INSTRUMENT NO., 0001378, OFFICIAL RECORDS, CLARK COUNTY.

Exhibit "B"
Development Agreement Owner Correspondence

Exhibit "B"
Development Agreement Owner/Applicant Correspondence

In accordance with Section 7.08, all notices, demands and correspondence required or provided for under this agreement shall be sent to the Owner and/or Applicant as follows:

Address all Correspondence as follows:

Owner

✓ Fort Apache, Ltd.

16915 Magnolia St.

Encino, CA 91316

Applicant/Correspondent

✓ Taney Engineering Attn: Emily Sidebottom

6030 S. Jones Blvd.

Las Vegas, NV 89118

Exhibit "C"
Agenda Sheet, Notice of Final Action, and Agenda Map

(see next page for attachments)

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

WS-24-0059-FORT APACHE, LTD:

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** setbacks; **2)** building height; **3)** parking lot landscaping; **4)** required parking; **5)** drive aisle length; **6)** residential adjacency; and **7)** driveway geometrics.

DESIGN REVIEW for a proposed multiple family residential (apartment) development on 9.1 acres in an RM32 (Residential Multi-Family 32) Zone.

Generally located on the west side of Fort Apache Road and the south side of Pebble Road within Enterprise. JJ/hw/ng (For possible action)

RELATED INFORMATION:

APN:

176-19-501-006 through 176-19-501-008; 176-19-501-025

WAIVERS OF DEVELOPMENT STANDARDS:

1. Reduce the street side setbacks for an accessory structure (carport) to 10 feet where 20 feet is required per Section 30.02.10.B (a 50% reduction).
2. Increase the height of a multiple family residential building to 55 feet where the maximum height permitted is 50 feet per Section 30.02.10.B (a 10% increase).
3. Allow alternative parking lot landscaping where parking lot landscaping is required per Section 30.04.01.
4.
 - a. Reduce the number of required electric vehicle (EV) capable parking spaces to 35 spaces where 108 spaces are required per Section 30.04.04.H (a 67% reduction).
 - b. Reduce the number of required EV installed parking spaces to 7 spaces where 13 spaces are required per Section 30.04.04.H (a 46% reduction).
 - c. Reduce the number of required short-term bicycle parking spaces to 15 spaces where 29 spaces are required per Section 30.04.04.J (a 48% reduction).
5. Increase the length of a parking lot drive aisle to 477 feet where 400 feet is the maximum permitted without a break for circulation per Section 30.04.04.H (an 19% increase).
6. Eliminate building height step backs for a building over 35 feet where a 1 foot horizontal step back is required for each foot of height over 35 feet per Section 30.04.06.H.
7. Reduce throat depth to 30.2 feet where 150 feet is the standard per Uniform Standard Drawing 222.1 (an 80% reduction).

PROPOSED LAND USE PLAN:

ENTERPRISE - URBAN NEIGHBORHOOD (GREATER THAN 18 DU/AC)

BACKGROUND:

Project Description

General Summary

- Site Address: N/A
- Site Acreage: 9.1
- Project Type: Multiple family residential development (apartments)
- Density (du/ac): 32
- Number of Units: 288
- Number of Stories: 4
- Building Height (feet): 55
- Square Feet: 142,000 (Building 100)/144,600 (Building 200)/6,890 (clubhouse)/293,490 (total)
- Open Space Required/Provided: 28,800/64,246
- Parking Required/Provided: 431/432
- Sustainability Points Required/Provided: 5/5

Site Plans

The plans depict a proposed 293,490 square foot, 288 unit multiple family residential apartment complex on 9.1 acres at the southwest corner of Fort Apache Road and Pebble Road. The plans show that the apartment complex will consist of 2 residential, "F" shaped buildings and a rectangular clubhouse. The northern residential building is shown to have a total of 142,000 square feet with a footprint of 35,500 square feet, while the southern residential building is shown to have a total of 144,600 square feet with a footprint of 36,150 square feet. The 2 residential buildings are shown to be 32.6 feet apart at the closest point on the western side of the buildings. In between, the building is 64,246 square feet of open space, which consists of various courtyards, a dog park, pool complex, basketball and pickleball courts, and a 6,890 square foot clubhouse space located on the eastern portion of the building complex. The plans show that the northern building is set back 72 feet from the Pebble Road, 108.3 feet from Fort Apache Road, and 191.8 feet from the western property line. The southern building is shown set back 89.8 feet from Raven Avenue, 194.6 from the western property line, and 108.6 feet from Fort Apache Road. Surrounding the buildings is the parking area with most of the parking spaces located within the western portion of the site. The drive aisles within the western portion of the parking area are shown to be almost 477 feet long without a break for circulation, which will require a waiver of development standards. In addition, the parking area is supplied with 432 parking spaces where 431 parking spaces are required; however, the plans show that only 35 EV capable spaces and 7 EV charger install spaces will be provided, where 108 spaces and 13 spaces are required, respectively. In addition, the site is being provided with 15 bicycle parking spaces where 29 bicycle parking spaces are required per Code. Several covered carports and enclosed garages are provided along the western, southern, and northern boundaries of the property. The enclosed garages are shown on the western side of the parking lot and are set back 15.2 feet from the western property line, while the covered carports are located throughout the western portion of the site with the closest carport set back 10 feet from Pebble Road, requiring a waiver of development standards. Access to the site is provided by 2 commercial driveways with 1 driveway located along Pebble Road and a main entrance located along Fort Apache Road with both driveways being gated. The gate along Pebble Road is set back 10 feet but will be an emergency access and egress only gate. The driveway along Fort Apache Road contains a call

box set back almost 76 feet from the right-of-way with the gate setback an additional 68.3 feet. The egress gate for the main entrance along Fort Apache Road is set back 39 feet and all 3 gates are swinging gates.

Landscaping

The plans show that both perimeter, street, and parking lot landscaping is being provided. Along Pebble Road, Fort Apache Road, and Raven Avenue, a 15 foot wide landscape area is being provided consisting of a 5 foot wide landscaping area, a 5 foot wide sidewalk, and a 5 plus foot wide landscaping area with a 6 foot tall decorative wrought iron fence located behind the landscape strip. The street landscaping strip generally contains 2 staggered rows of Willow Acacia (*Acacia Salicina*) trees set apart approximately 30 feet on center in each row. A total of 57 large street trees are required with 57 large street trees being provided. Along the western property line, a buffering landscape strip has been provided. This landscape strip is 15 feet wide and contains 2 rows of medium Evergreen, Rosewood (*Dalbergia Sissoo*) trees in 2 staggered rows separated 20 feet on center in each row. An 8 foot decorative wall has been provided behind the buffering landscape strip. Within the parking lot, Sweet Bay (*Laurus Nobilis*), Rosewood, and Willow Acacia trees have been provided every 6 to 12 spaces as shown per Figure 30.04-1. Within the western portion of the parking lot, diamond figure islands have also been provided instead of the required landscape islands. A total of 72 parking lot trees are required where 84 trees have been provided. Additional landscaping has been provided within the open space between the buildings. A 6.2 foot stem wall is provided along the eastern side of the building complex.

Elevations

The provided elevations of the buildings on-site show that both residential buildings are identical to each other. Both buildings are 55 feet tall and contain 4 stories. Both buildings are constructed of painted stucco with a grey and blue color scheme. Each façade contains black railing balconies, wall plane changes, roofline variations, color and texture variations, window treatments, and windows of various sizes. The clubhouse serves as the main entrance and is extenuated with a long awning and double commercial doors. The entrances to each door have an aluminum metal awning. The clubhouse is similar in architecture to the primary residential buildings with large and varying windows, large awnings and vertical louvers, varying rooflines, and wall plane changes. The clubhouse is stucco with a blue and grey color scheme and will have a large artwork wrap on the southern and eastern facades. The peak height of the clubhouse is 22.8 feet. The detached garage structures are shown to be a maximum of 12 feet tall with a flat roof, changes in texture and color, and a dormer treatment on all 4 sides. The roll-up doors face the east and are screened by the main buildings and landscaping. The color scheme of the garages matches the main buildings.

Floor Plans

The plans show that the 2 residential buildings are relatively similar in terms of their unit composition. The plans show that there are a total of 288 units split between the 2 buildings with each building containing 144 units with each floor of the buildings containing 36 units with the count of each unit type for each varying by the building. The plans show that there are 9 unit types with a studio unit, 4 one bedroom unit types, 3 two bedroom unit types, and a 3 bedroom unit. Overall between the 2 buildings, the studio units are 597 square feet and there are 16 total

units. Between the four, 1 bedroom unit types these units range in size from 667 square feet up to 750 square feet with 158 units being provided. The 2 bedroom unit types are all 1,081 square feet with 98 units being provided, and the 3 bedroom unit is 1,338 square feet with 16 units being provided. Additional service rooms, common spaces, and laundry areas are also provided on each floor. The clubhouse is 6,890 square feet and contains an office and leasing area, a gym, common spaces, and bathrooms.

Applicant’s Justification

The applicant states the proposed multiple family development will serve to alleviate the vital need for a variety of housing types within the Las Vegas Valley. The proposed development will provide for 288 units and will provide for more landscaping and open space than what is required by Code. All gates will be properly set back. The applicant states that based on statistical analyses conducted the provided amount of EV charging spaces should be sufficient for the development. The parking area has been designed with the best possible circulation in mind and is sufficiently screened with landscaping. Additionally, the applicant states that many of the waivers being requested will have a minimal impact on the surrounding area and have been previously approved for similar projects.

In addition, the applicant is requesting that the following sustainability initiatives be considered for the satisfying of Title 30 sustainability requirements:

1. Providing at least 10% more trees than required (1 point).
2. Trees provided in parking areas with canopies at maturity cover at least 50% of paved parking area (1 point).
3. Cool roofs provided (1 point).
4. Roof surfaces oriented within 30 degrees of a true east-west direction and flat in a southern direction (1 point).
5. Floor to ceiling height of 9 feet on all floors (1/2 point).
6. Shade device above all building entrances and ADA ramps (1/2 point).

Prior Land Use Requests

Application Number	Request	Action	Date
ZC-0918-05	Reclassified the site from R-E to C-2 zoning for a future neighborhood shopping center	Approved by BCC	July 2005
ZC-0852-97	Reclassified the site from R-E to C-2 zoning for a shopping center - expired	Held Indefinitely	June 1997
WT-0779-95	40 foot tall overhead transmission lines	Approved by PC	June 1995

Surrounding Land Use

	Planned Land Use Category	Zoning District (Overlay)	Existing Land Use
North	Open Lands	RS20	Undeveloped
South	Mid-Intensity Suburban Neighborhood (up to 8 du/ac) & Open Lands	RS3.3 & RS20	Single family residential & undeveloped

Surrounding Land Use

	Planned Land Use Category	Zoning District (Overlay)	Existing Land Use
East	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	CG & RS20	Undeveloped
West	Corridor Mixed-Use & Open Lands	RS3.3	Single family residential

The subject site is in the Public Facilities Needs Assessment (PFNA) area.

Related Applications

Application Number	Request
PA-24-700002	A plan amendment to redesignate the existing land use category from Corridor Mixed-Use (CM) to Urban Neighborhood (UN) is a companion item on this agenda.
ZC-24-0058	A zone change reclassifying the site from CG to RM32 zoning is a companion item on this agenda.
SDR-24-0060	A sign design review for wall, awning, and entrance signs for an apartment complex is a companion item on this agenda.
VS-24-0061	A vacation and abandonment of a BLM right-of-way grant, patent easements, and rights-of-way is a companion item on this agenda.

STANDARDS FOR APPROVAL:

The applicant shall demonstrate that the proposed request is consistent with the Master Plan and is in compliance with Title 30.

Analysis

Comprehensive Planning

Waivers of Development Standards

The applicant shall have the burden of proof to establish that the proposed request is appropriate for its proposed location by showing the following: 1) the use(s) of the area adjacent to the subject property will not be affected in a substantially adverse manner; 2) the proposal will not materially affect the health and safety of persons residing in, working in, or visiting the immediate vicinity, and will not be materially detrimental to the public welfare; and 3) the proposal will be adequately served by, and will not create an undue burden on, any public improvements, facilities, or services.

Waiver of Development Standards #1

Staff finds that in general the purpose of street side setbacks are to not only protect structures from unsafe conditions along the street, but to also protect the streetscape from potentially distracting activities. Staff ultimately finds that in this case, the carports are sufficiently screened from and protected from the right-of-way by way of detached sidewalk and landscaping, and a 6 foot wrought iron fence. For these reasons, staff could support this waiver of development standards, but since staff is not supporting the other waivers, staff cannot support this request.

Waivers of Development Standards #2 & #6

Staff finds that the proposed height for the buildings is excessive given that the surrounding area is principally composed of 1 and 2 story residential homes. In addition, the commercial development across the street was only approved for 20 feet tall. Staff finds that the 50 foot allowance for the building within the RM32 zone would already be out of scale for the area but adding an additional 5 feet adds to the bulk of the structure with no step backs to alleviate the overall scale of the building. Staff can appreciate that the building is set back from the adjacent residential, but without some architectural mitigation to reduce the bulk and scale of the structure, staff cannot support these requests.

Waiver of Development Standards #3

Normally staff discourages diamond shaped landscaping islands due to their tendency to restrict parking, but since these islands are allowing for additional trees beyond what is required by Code, staff could support this waiver of development standards. However, staff is not supporting the other waivers of development standards; therefore, staff cannot support this request.

Waiver of Development Standards #4a & #4b

The purpose of providing EV charging spaces is to support and amplify sustainable modes of transportation. Staff finds that the applicant's parking analysis justifies the reduction in EV capable and installed spaces. Staff finds that based on the applicant's analysis of EV growth for their multiple family projects under a high growth scenario, the EV parking needs for the site by 2030 is 13 parking spaces while the applicant is proposing to provide 42 parking spaces split between 7 installed EV charging spaces and 35 EV charging capable spaces. Based on this analysis, the site will be well equipped with sufficient EV charging spaces for the 2030 scenario and beyond. However, staff finds that the proposed reduction is excessive; therefore, staff cannot support these requests.

Waiver of Development Standards #4c

The purpose of providing short-term bicycle parking is to provide alternative and last mile transportation for both residents and employees of the multiple family residential complex. Staff finds that while the area directly surrounding the site is mostly residential in nature, the commercial corridor along Blue Diamond Road is close enough to be able to bike to along with there being several bus lines running along Blue Diamond Road as well. In addition, the site is also not too far from the Red Rock National Recreation Area, which provides several areas for on and off-road biking. For these reasons, staff cannot support this request.

Waiver of Development Standards #5

The purpose of not allowing long extended drive aisles without breaks for circulation is to prevent unsafe speeding within parking areas. Staff finds that no alternative or mitigating circumstances have been provided to alleviate the issues that come with long drive aisles. In addition, the project is being developed on raw land that could be designed to have drive aisles that are compliant with Code. For these reasons, staff cannot support this request.

Design Review

Development of the subject property is reviewed to determine if 1) it is compatible with adjacent development and is harmonious and compatible with development in the area; 2) the elevations,

design characteristics and others architectural and aesthetic features are not unsightly or undesirable in appearance; and 3) site access and circulation do not negatively impact adjacent roadways or neighborhood traffic.

Staff finds that the physical design of the building is attractive with a subtle color scheme and 4 sided architecture which contain several architectural features that create a modern and contemporary feel for the building. The site design of the building complex seamlessly integrates the required open space area with the 3 buildings for easy access. The location of the buildings, pedestrian walkways, building entrance location and design, and parking on the site is typical of multiple family residential developments and, while the buildings are not sited along the street, is responsive to the surrounding area, as the pedestrian realm is not well developed in this area of Fort Apache Road and sufficient screening and landscaping have been provided. The provided sustainability initiatives are sufficient for the type of development being proposed. In addition, the site is providing a significant amount of landscaping, which helps to soften the appearance of the site from the surrounding streets and create shading opportunities. With that said, staff does have concerns regarding the design of the project. Staff finds that the overall complex size is quite large and the scale and bulk of the buildings are out of scale for the surrounding area. The buildings will tower over the surrounding single family residential and commercial uses. While sufficient landscaping has been provided, staff does not find that this is sufficient to address the sheer bulk of the buildings. In addition, no architectural mitigation measures have been provided to address the bulk of the buildings. Furthermore, staff has concerns that the location of this use and its size is inappropriate for the area and does not concur with the applicant that this is a suitable transitional use at this location. Overall, staff finds that the buildings are attractive, and the use is much needed, but finds that the proposed location makes the use inappropriate and out of place. Staff also finds that the proposed multiple family project does not comply with Policy 1.3.3 of the Master Plan which encourages the integration of grocery stores, restaurants, medical offices, and other daily needs as part of or adjacent to new neighborhoods to minimize the need for longer vehicle trips, and Policy EN-5.3 which promotes limiting the conversion of commercial lands for the purposes of residential development. For these reasons, and the fact that staff is not supporting the proposed plan amendment and zone change, staff cannot support this design review nor the design reviews for parking lot location, alternative pedestrian connectivity, and entrance design.

Public Works - Development Review

Waiver of Development Standards #7

Staff has no objection to the reduced throat depth for the driveway on Fort Apache Road, the applicant has placed the gates and call box farther into the site which will provide more room for vehicles to exit the right-of-way and will reduce stacking in the right-of-way to avoid collisions. However, since Planning is recommending denial of the application, staff cannot support this waiver.

Staff Recommendation

Denial. This item has been forwarded to the Board of County Commissioners' meeting for final action.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Master Plan, Title 30, and/or the Nevada Revised Statutes.

STAFF CONDITIONS:

Public Works - Development Review

- Right-of-way dedication to include 35 feet to the back of curb for Pebble Road and 25 feet to the back of curb for Raven Avenue **and 54 foot property lines radius;**

PLANNING COMMISSION ACTION: April 16, 2024 – APPROVED – Vote: Aye: Castello, Kirk, Lee, Mujica, Stone: Nay: Kilarski Absent: Frasier

Comprehensive Planning

- Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area;
- Certificate of Occupancy and/or business license shall not be issued without approval of an application for a zoning inspection.
- Applicant is advised within 2 years from the approval date the application must commence or the application will expire unless extended with approval of an extension of time; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified; changes to the approved project will require a new land use application; and the applicant is solely responsible for ensuring compliance with all conditions and deadlines.

Public Works - Development Review

- Drainage study and compliance;
- Traffic study and compliance;
- Full off-site improvements;
- Right-of-way dedication to include 35 feet to the back of curb for Pebble Road and 25 feet to the back of curb for Raven Avenue;
- 30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements for any collector street or larger;
- 90 days to record required right-of-way dedications and any corresponding easements for any collector street or larger;
- 30 days to coordinate with Public Works - Design Division and to dedicate any necessary right-of-way and easements for the Fort Apache improvement project;
- Applicant to coordinate a contribution with Public Works for the Fort Apache improvement project.
- Applicant is advised that the installation of detached sidewalks will require dedication to back of curb, the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control, and that signs, structures, and landscaping shall not encroach into public right-of-way, easements, or sight-visibility zones.

Fire Prevention Bureau

- Applicant is advised to submit plans for review and approval prior to installing any gates, speed humps (speed bumps not allowed), and any other Fire Apparatus Access Roadway obstructions; and that fire/emergency access must comply with the Fire Code as amended.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email sewerlocation@cleanwaterteam.com and reference POC Tracking #0091-2024 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

WAIVER OF DEVELOPMENT STANDARDS #4 WAS WITHDRAWN WITHOUT PREJUDICE.

TAB/CAC: Enterprise - denial.

APPROVALS: 2 cards

PROTESTS: 7 cards, 1 letter

APPLICANT: THE CALIDA GROUP

CONTACT: KAEMPFER CROWELL, 1980 FESTIVAL PLAZA DRIVE, SUITE 650, LAS VEGAS, NV 89135



Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 455-3271

Sami Real, Director

NOTICE OF FINAL ACTION

June 04, 2024

KAEMPFER CROWELL
1980 FESTIVAL PLAZA DR, STE 650
LAS VEGAS, NV 89135

REFERENCE: WS-24-0059

On the date indicated above, a Notice of Final Action was filed with the Clark County Clerk, Commission Division, pursuant to NRS 278.0235 and NRS 278.3195, which starts the commencement of the twenty-five (25) day limitation period specified therein.

The above referenced application was presented before the Clark County Board of County Commissioners at their regular meeting of **May 22, 2024**. The final decision along with any conditions are listed below. You will be required to comply with all conditions prior to the issuance of a building permit or a business license, whichever occurs first.

Time limits to commence, complete or review this approval, apply only to this specific application. A property may have several approved applications on it with each having its own expiration date. **It is the applicant's responsibility to keep the application current.**

APPROVED.

CONDITIONS OF APPROVAL - Comprehensive Planning

- **Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area;**
- **Certificate of Occupancy and/or business license shall not be issued without approval of an application for a zoning inspection.**
- **Applicant is advised within 2 years from the approval date the application must commence or the application will expire unless extended with approval of an extension of time; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified; changes to the approved project will require a new land use application; and the applicant is solely responsible for ensuring compliance with all conditions and deadlines.**

Public Works - Development Review

- **Applicant to conduct a traffic signal warrant analysis for the intersection of Pebble Road and Fort Apache Road;**
- **Work with the Commissioner's office and Public Works on a cost contribution for the traffic signal at Pebble Road and Fort Apache Road;**
- **Drainage study and compliance;**

BOARD OF COUNTY COMMISSIONERS

TICK SEGERBLOM, Chair • WILLIAM MCCURDY II, Vice Chair
MICHAEL NAFT • MARILYN KIRKPATRICK • JUSTIN C. JONES • ROSS MILLER • JAMES B. GIBSON
KEVIN SCHILLER, County Manager



Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 455-3271

Sami Real, Director

- **Traffic study and compliance;**
- **Full off-site improvements;**
- **Right-of-way dedication to include 35 feet to the back of curb for Pebble Road, 25 feet to the back of curb for Raven Avenue, and a 54 foot property line radius at the corner of Pebble Road and Raven Avenue;**
- **30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements for any collector street or larger;**
- **90 days to record required right-of-way dedications and any corresponding easements for any collector street or larger;**
- **30 days to coordinate with Public Works - Design Division and to dedicate any necessary right-of-way and easements for the Fort Apache improvement project;**
- **Applicant to coordinate a contribution with Public Works for the Fort Apache improvement project.**
- **Applicant is advised that the installation of detached sidewalks will require dedication to back of curb, the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control, and that signs, structures, and landscaping shall not encroach into public right-of-way, easements, or sight-visibility zones.**

Fire Prevention Bureau

- **Applicant is advised to submit plans for review and approval prior to installing any gates, speed humps (speed bumps not allowed), and any other Fire Apparatus Access Roadway obstructions; and that fire/emergency access must comply with the Fire Code as amended.**

Clark County Water Reclamation District (CCWRD)

- **Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email sewerlocation@cleanwaterteam.com and reference POC Tracking #0091-2024 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.**

WAIVER OF DEVELOPMENT STANDARDS #4 WAS WITHDRAWN WITHOUT PREJUDICE.

BOARD OF COUNTY COMMISSIONERS

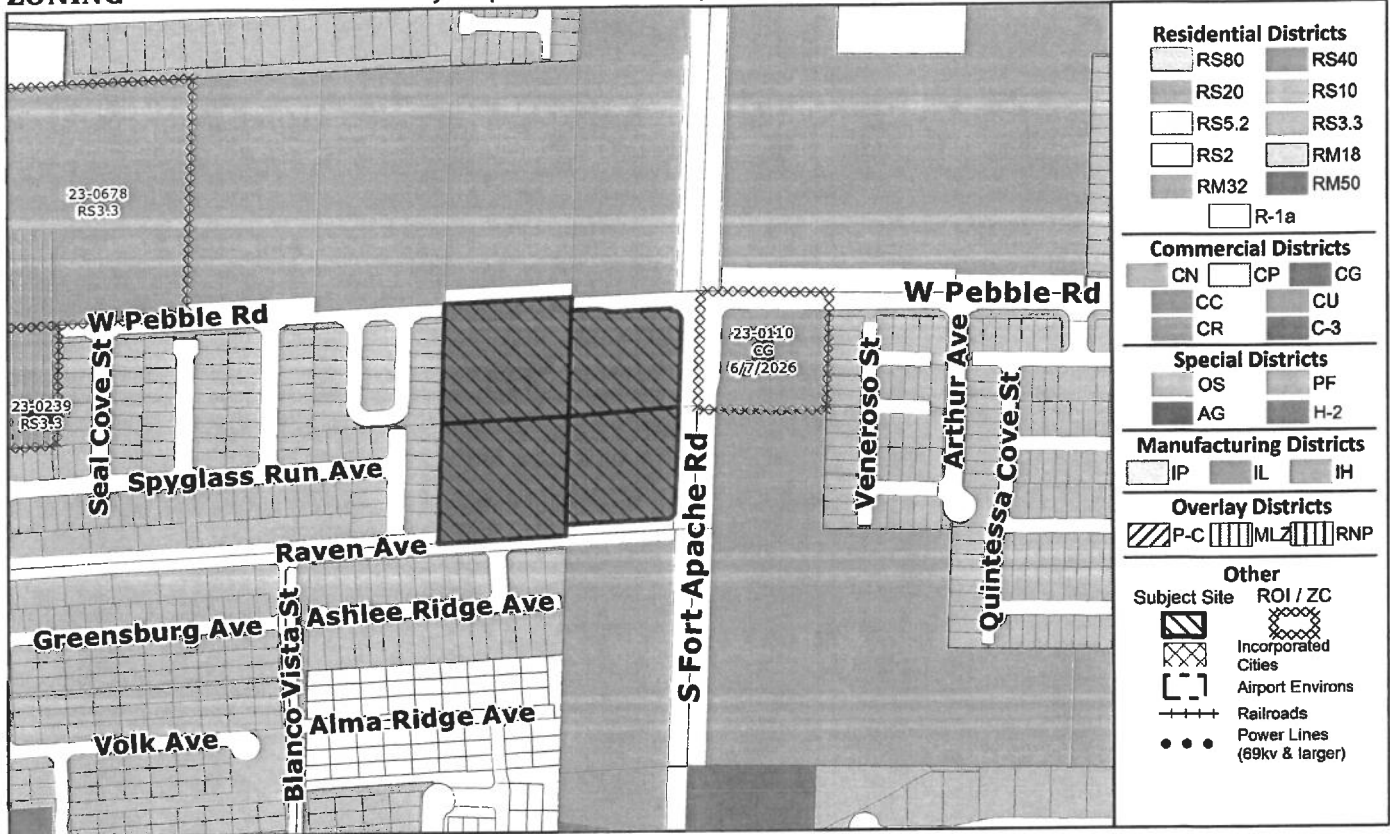
TICK SEGERBLOM, Chair • WILLIAM MCCURDY II, Vice Chair
MICHAEL NAFT • MARILYN KIRKPATRICK • JUSTIN C. JONES • ROSS MILLER • JAMES B. GIBSON
KEVIN SCHILLER, County Manager

Commission Agenda Map

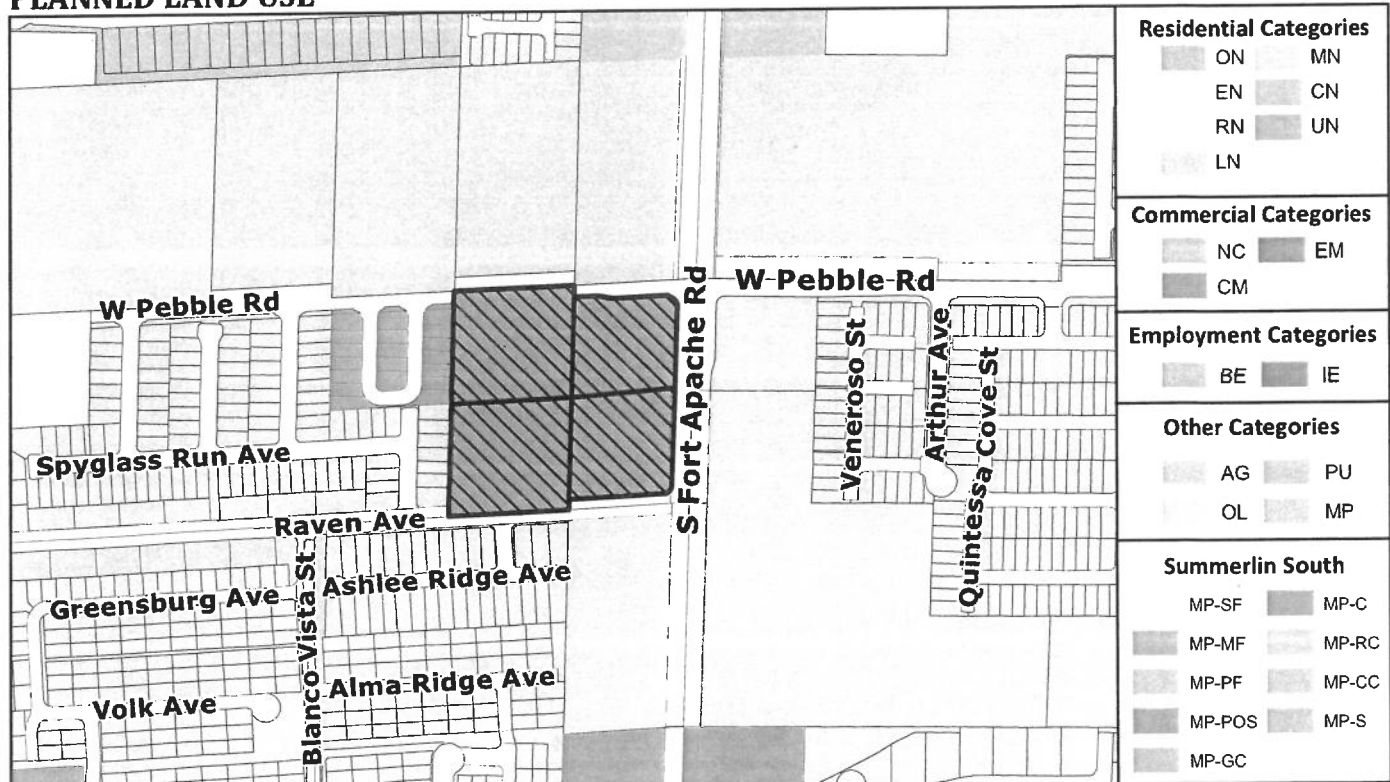
WS-24-0059

ZONING

Clark County Department of Comprehensive Planning, Clark County, Nevada



PLANNED LAND USE



This information is for display purposes only. No liability is assumed as to the accuracy of the data delineated hereon.

Subject Parcel(s)
 17619501008
 17619501006
 17619501025

See complete list on file



0 100 200 Feet
 Map Created on 2/22/2024

