

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

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**Petitioner:** Nancy A. Amundsen, Director, Department of Comprehensive Planning

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**Recommendation:** ORD-23-900060: Conduct a public hearing on an ordinance to consider adoption of a Development Agreement with GS-OI South Las Vegas Boulevard Owner LLC for a multiple family residential development on 15.1 acres, generally located south of Chartan Avenue and east of Las Vegas Boulevard within Enterprise. MN/dd (For possible action)

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**FISCAL IMPACT:**

None by this action.

**BACKGROUND:**

The Board of County Commissioners (Board) approved a land use application NZC-22-0056 for a multiple family residential development on 15.1 acres, generally located south of Chartan Avenue and east of Las Vegas Boulevard 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 conduct a public hearing.

**Cleared For Agenda**  
05/03/23

BILL NO. 4-19-23-2

SUMMARY - An ordinance to adopt a Development Agreement with GS-OI South Las Vegas Boulevard Owner LLC for a multiple family residential development on 15.1 acres, generally located south of Chartan Avenue and east of Las Vegas Boulevard within Enterprise.

ORDINANCE NO. \_\_\_\_\_  
(of Clark County, Nevada)

**AN ORDINANCE TO ADOPT A DEVELOPMENT AGREEMENT WITH GS-OI SOUTH LAS VEGAS BOULEVARD OWNER LLC FOR A MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT ON 15.1 ACRES, GENERALLY LOCATED SOUTH OF CHARTAN AVENUE AND EAST OF LAS VEGAS BOULEVARD 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 30.20 of the Clark County Code a Development Agreement with GS-OI South Las Vegas Boulevard Owner LLC for a multiple family residential development on 15.1 acres, generally located south of Chartan Avenue and east of Las Vegas Boulevard 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 \_\_\_\_\_, 2023

INTRODUCED by: \_\_\_\_\_

PASSED on the \_\_\_\_\_ day of \_\_\_\_\_, 2023

VOTE:

AYES: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ABSTAINING:

\_\_\_\_\_  
\_\_\_\_\_

ABSENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

By: \_\_\_\_\_  
JAMES B. GIBSON, Chair

ATTEST:

\_\_\_\_\_  
Lynn Marie Goya, County Clerk

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day  
of \_\_\_\_\_ 2023.

APN(s): 177-33-401-001, 002, 003, 004, & 005  
Please Return to: Sami Real  
Comprehensive Planning Department  
1<sup>st</sup> Floor, Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, Nevada 89155

DEVELOPMENT AGREEMENT

BETWEEN

THE COUNTY OF CLARK

AND

**GS-OI South Las Vegas Boulevard Owner LLC**

FOR

**CHARTAN AND LAS VEGAS**

**ORD-23-900060**

# 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 **GS-OI South Las Vegas Boulevard Owner LLC** 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 **NZC-22-0056**, 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 Chapter 30.20 of the Clark County Unified Development Code (Title 30) along with any other Chapters of the Clark County Code that are relevant to this Agreement.
- (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.

<b>CHART 4.01-A PUBLIC FACILITIES CHART</b>			
<b>Type of Development</b>	<b>Infrastructure Category</b>		<b>Total</b>
	<b>Parks</b>	<b>Public Safety<sup>1</sup></b>	
<b>Single Family Dwelling Unit</b> <small>(per dwelling unit)</small>	<b>\$532.93</b>	<b>\$900.81</b>	<b>\$1433.74</b>
<b>Multi Family Dwelling Unit</b> (per dwelling unit)	<b>\$532.93</b>	<b>\$883.24</b>	<b>\$1416.17</b>
<b>Retail</b> <small>(per square foot gross floor area)</small>	<b>N/A</b>	<b>\$0.60</b>	<b>\$0.60</b>
<b>Office</b> <small>(per square foot gross floor area)</small>	<b>N/A</b>	<b>\$0.67</b>	<b>\$0.67</b>
<b>Industrial</b> <small>(per square foot gross floor area)</small>	<b>N/A</b>	<b>\$0.40</b>	<b>\$0.40</b>
<b>Hotel</b> <small>(per room)</small>	<b>N/A</b>	<b>\$902.27</b>	<b>\$902.27</b>
<sup>1</sup> Fees only for Fire; no Metro			

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, 1<sup>st</sup> 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, 5<sup>th</sup> 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 on the day and year first above written, as authorized by Ordinance No. 1579 of the Clark County Code, to be effective on the date shown in Section 2.01(c).

**COUNTY:**

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

Attest:

By: \_\_\_\_\_  
James B. Gibson, Chair

\_\_\_\_\_  
Lynn Marie Goya, County Clerk

**ACKNOWLEDGMENT:**

STATE OF NEVADA        )  
                                  )ss:  
COUNTY OF CLARK     )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

By \_\_\_\_\_, Chair of the Board of County Commissioners, County of Clark,  
State of Nevada

NOTARY PUBLIC

\_\_\_\_\_  
Signature

My Commission expires: \_\_\_\_\_



**OWNER:**

Billy Cundiff  
PRINT OWNER NAME

**ENTITY NAME:**

GS-01 South Las Vegas Boulevard Owner LLC  
PRINT ENTITY NAME

By:   
Owner Signature

**ACKNOWLEDGMENT:**

STATE OF ARIZONA        )  
                                          )ss:  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on the 28<sup>th</sup> day of March, 2023,  
by Billy Cundiff  
(Printed Name of Document Signer)

**NOTARY PUBLIC**

Beverlee R Minetti  
Signature

My Commission expires: November 22, 2025



**Exhibit "A"**  
**Legal Description**

**(see next page for attachment)**

### LEGAL DESCRIPTION

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

PARCEL 1:

GOVERNMENT LOT 82 LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN U.S. HIGHWAY 91.

TOGETHER WITH THAT PORTION OF U.S. HIGHWAY 91 AS ABANDONED BY THAT CERTAIN RESOLUTION OF ABANDONMENT RECORDED JANUARY 21, 1982 IN BOOK 1513 AS DOCUMENT NOS. 1472121 AND 1472122, OF OFFICIAL RECORDS.

PARCEL 2:

GOVERNMENT LOTS 55 AND 81, LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN U.S. HIGHWAY 91.

TOGETHER WITH THAT PORTION OF U.S. HIGHWAY 91 AS ABANDONED BY THAT CERTAIN RESOLUTION OF ABANDONMENT RECORDED JANUARY 21, 1982 IN BOOK 1513 AS DOCUMENT NOS. 1472121 AND 1472122, OF OFFICIAL RECORDS.

PARCEL 3:

GOVERNMENT LOTS 64 AND 83, LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN U.S. HIGHWAY 91.

TOGETHER WITH THAT PORTION OF U.S. HIGHWAY 91 AS ABANDONED BY THAT CERTAIN RESOLUTION OF ABANDONMENT RECORDED JANUARY 21, 1982 IN BOOK 1513 AS DOCUMENT NOS. 1472121 AND 1472122, OF OFFICIAL RECORDS.

PARCEL 4:

GOVERNMENT LOT 57, LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN U.S. HIGHWAY 91.

TOGETHER WITH THAT PORTION OF U.S. HIGHWAY 91 AS ABANDONED BY THAT CERTAIN RESOLUTION OF ABANDONMENT RECORDED JANUARY 21, 1982 IN BOOK 1513 AS DOCUMENT NOS. 1472121 AND 1472122, OF OFFICIAL RECORDS.

**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**

GS-01 South Las Vegas Boulevard Owner LLC

2525 E. Camelback Road

Phoenix AZ 85016

**Applicant/Correspondent**

GS-01 South Las Vegas Boulevard Owner LLC

2525 E. Camelback Road

Phoenix AZ 85016

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

**(see next page for attachments)**

06/08/22 BCC AGENDA SHEET

MULTIPLE FAMILY  
RESIDENTIAL DEVELOPMENT  
(TITLE 30)

**UPDATE**  
LAS VEGAS BLVD S/CHARTAN AVE

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST  
**NZC-22-0056-MICHELON FAMILY LV LAND, LLC:**

**HOLDOVER ZONE CHANGE** to reclassify 15.1 acres from an H-2 (General Highway Frontage) Zone to an R-4 (Multiple Family Residential - High Density) Zone.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: 1) building height; and 2) non-standard improvements (landscaping) in the right-of-way.

**DESIGN REVIEWS** for the following: 1) multiple family residential development; 2) alternative parking lot landscaping; and 3) finished grade.

Generally located on the east side of Las Vegas Boulevard South and the south side of Chartan Avenue within Enterprise (description on file). MN/jt/jo (For possible action)

---

**RELATED INFORMATION:**

**APN:**

177-33-401-001 through 177-33-401-005

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. a. Increase building height to 39 feet where 35 feet is the maximum per Table 30.40-3 (a 12% increase).
- b. Reduce 3:1 height/setback ratio to 44 feet where 99 feet is required per Figure 30.56-10 (a 56% reduction).
2. Allow non-standard improvements (landscaping) in the Las Vegas Boulevard South right-of-way where not allowed per Chapter 30.52.

**DESIGN REVIEWS:**

1. Multiple family residential development.
2. Alternative parking lot landscaping.
3. Increase finished grade to 45 inches where a maximum of 36 inches is the standard per Section 30.32.040 (a 25% increase).

**LAND USE PLAN:**

ENTERPRISE - ENTERTAINMENT MIXED-USE  
ENTERPRISE - NEIGHBORHOOD COMMERCIAL

## **BACKGROUND:**

### **Project Description**

#### General Summary

- Site Address: N/A
- Site Acreage: 15.1
- Number of Units: 324
- Density (du/ac): 21.5
- Project Type: Multiple family residential development
- Number of Stories: 3
- Building Height (feet): 39
- Open Space Required/Provided: 32,400/84,773
- Parking Required/Provided: 574/576

#### **Neighborhood Meeting Summary**

Notices for a neighborhood meeting were mailed to property owners located within 1,500 feet of the site informing them of a meeting on August 19, 2021 at the Enterprise Library. Nine neighbors attended the meeting, and expressed concerns about density, traffic, and the increased building height.

#### Site Plan

The site plan depicts a multiple family residential development consisting of 10 residential buildings and a clubhouse. Overall setbacks include 26 feet to the west property line along Las Vegas Boulevard South, 95 feet to the south property line, 44 feet to the east property line, and 33 feet to the north property line along Chartan Avenue.

Gated ingress/egress is provided from Las Vegas Boulevard South on the west side of the site. Emergency ingress/egress is also provided on the north side of the site from Chartan Avenue. A drive aisle circles around the site, and parking spaces are located along the south property line, along the east property line, and around portions of the residential buildings and clubhouse. Many of the parking spaces include carport covers for shade. Also, trash enclosures are located near the residential buildings throughout the site.

#### Landscaping

Landscaping is provided around the perimeter of the site and around the base of the buildings. Along Las Vegas Boulevard South, a 45 foot wide landscape area with a detached sidewalk is provided in the right-of-way, which requires a waiver of development standards. An additional 20 foot wide landscape area is provided on-site along Las Vegas Boulevard South, which consists of a 15 foot wide landscape area, a 6 foot high view fence, and a 5 foot wide landscape area.

A 10 foot wide landscape strip is provided along the south property line behind a 6 foot high screen wall, and a 20 foot wide landscape strip is provided along the east property line behind a 6 foot high screen wall. Along the north property line, adjacent to Chartan Avenue, landscaping is 15 feet wide, which consists of a 5 foot wide landscape strip, a 5 foot wide sidewalk, and a 5 foot



wide landscape strip in front of a 6 foot high view fence. Additional landscaping is provided behind the view fence, which varies in width from 15 feet to 25 feet.

Landscape fingers are not provided in the parking lot throughout the site; however, a design review for alternative parking lot landscaping is included with this application since the required parking lot trees are placed in other areas of the site.

Amenities within the multiple family residential development include a pool, spa, ramada seating area, and dog park. A total of 84,773 square feet of open space is provided where 32,400 square feet of open space is required.

#### Elevations

The residential building elevations extend up to 39 feet high, which necessitates a waiver of development standards. However, the top of the buildings consists of parapet walls at various heights, some of which are 37 feet high. A waiver of development standards is also necessary to reduce the 3:1 height/setback ratio along the east property line to a 44 foot setback where a 99 foot setback is the minimum for the 39 foot tall buildings from the adjacent single family residences. However, only the northernmost building near Chartan Avenue is located at the 44 foot setback from the east property line. The building to the south of the northernmost building is set back 95 feet from the east property line, and the setback for the 3 other buildings from the east property line ranges from 97 feet to 157 feet.

Exterior materials for the residential buildings include painted stucco along with metal railing along the balconies. The vertical planes of the buildings are off-set to create visual relief to help reduce the apparent mass of the buildings. The clubhouse includes similar materials and architecture with the residential buildings; however, the highest parapet wall along the roofline extends up to 23 feet.

#### Floor Plan

The multiple family residential development consists of 132 one bedroom units, 162 two bedroom units, and 30 three bedroom units for a total of 324 units. The units range in size from 754 square feet to 1,312 square feet, and the 9,643 square foot clubhouse includes a lobby area, offices, business center, mail room, restrooms, and fitness center.

#### Signage

Signage is not a part of this request.

#### Applicant's Justification

According to the applicant, the R-4 zoning for a multiple family residential development is appropriate at this location, and the development will provide a transition from Las Vegas Boulevard South to the residential development to the east. While several alternative standards are requested with design reviews and waivers of development standards, the applicant indicates that these alternative standards are appropriate. For example, while the minimum number of landscaping islands are not provided in the parking lot, additional trees are provided throughout the complex. Overall, 310 trees are provided where 220 trees are required. Regarding the increased finished grade, the applicant indicates that the site slopes from south to north, which

will require fill to provide the appropriate drainage. The finished grade will only be a few feet above the finished grade of the homes to the east.

Regarding the waivers of development standards, the applicant indicates that the increased height is typical for R-4 zoned multiple family residential developments in the area. In addition, the applicant reduced the overall building height from 50 feet to 39 feet based on feedback received at the neighborhood meeting. The additional 4 feet is necessary to visually block rooftop mounted mechanical equipment and to provide architectural enhancements. Also, the reduced 3:1 height/setback ratio will not have a negative impact on the residences to the east since a 20 foot wide landscape buffer is provided. Furthermore, only the side of the northernmost residential building is set back 44 feet from the east property line. The other buildings are set back between 95 and 157 feet.

Lastly, the waiver of development standards to allow non-standard improvements in the right-of-way is necessary to provide additional landscaping to beautify the site until the full width of Las Vegas Boulevard is built. The applicant will enter into a license and maintenance agreement for the landscaping in the right-of-way.

**Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	Entertainment Mixed-Use & Neighborhood Commercial	H-1	Undeveloped
South	Entertainment Mixed-Use	C-2	Convenience store, gasoline station, & retail center
East	Ranch Estate Neighborhood (up to 2 du/ac) & Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-E (RNP-I) & R-1	Single family residential
West	Entertainment Mixed-Use	C-2	Undeveloped

The subject site and surrounding area are located in the Public Facilities Needs Assessment (PFNA) area.

**Related Applications**

<b>Application Number</b>	<b>Request</b>
VS-22-0057	A request to vacate and abandon various rights-of-way is a companion item on this agenda.

**STANDARDS FOR APPROVAL:**

The applicant shall demonstrate that the proposed request meets the goals and purposes of Title 30.

## **Analysis**

### **Current Planning**

#### Zone Change

The applicant shall provide Compelling Justification that approval of the nonconforming zoning boundary amendment is appropriate. A Compelling Justification means the satisfaction of the following criteria as listed below:

- 1. A change in law, policies, trends, or facts after the adoption, readoption or amendment of the land use plan that have substantially changed the character or condition of the area, or the circumstances surrounding the property, which makes the proposed nonconforming zone boundary amendment appropriate.*

A changing trend since the most recent adoption of the Enterprise Land Use Plan is the sharp increase in housing demand. Many multiple family residential developments have been approved along Las Vegas Boulevard South. As a result, of this changing trend, the R-4 zoning is appropriate.

- 2. The density and intensity of the uses allowed by the nonconforming zoning is compatible with the existing and planned land uses in the surrounding area.*

North of this site is an undeveloped property zoned H-1, west of the site is an undeveloped property zoned C-2, and south of the site is an existing convenience store, gasoline station, and commercial complex with a tavern. As a result, the density and intensity of development allowed in the R-4 zoning district is compatible with the existing and planned land uses to the north, west, and south of the site.

While an existing R-E (RNP-I) zoned area is located directly to the east, R-4 zoning will provide a buffer between the traffic and intense uses along Las Vegas Boulevard South and the single family residences. In addition, the western portion of the subject site is planned for Entertainment Mixed-Use, which could allow H-1 zoned projects with a height up to 100 feet. Lastly, the applicant indicates that the eastern portion of the site, which is planned for Neighborhood Commercial, is not viable without frontage along Las Vegas Boulevard South and in combination with a more intense development.

- 3. There will not be a substantial adverse effect on public facilities and services, such as roads, access, schools, parks, fire and police facilities, and stormwater and drainage facilities, as a result of the uses allowed by the nonconforming zoning.*

There has been no indication from public utility purveyors that the proposed nonconforming zone change will negatively impact public facilities and services. However, the Clark County School District indicates that Liberty High School was at 130% capacity for the 2021-2022 school year. Both Bass Elementary School and Silvestri Middle School are currently under capacity.

- 4. The proposed nonconforming zoning conforms to other applicable adopted plans, goals, and policies.*

The proposed nonconforming zoning conforms with several policies in the Master Plan. For example, Enterprise Policy EN-1.1 encourages compatible in-fill development and transitioning from higher intensity uses. Here, the R-4 zoning is compatible with the H-1 zoning to the north and C-2 zoning to the west and south, and the R-4 zoning provides a transition from Las Vegas Boulevard South to the single family residences to the east.

Furthermore, Countywide Policy 1.1.1 encourages a mix of housing types, and Policy 1.4.5 encourages development transitions adjacent to existing residential neighborhoods. Here, the R-4 zoning will provide multiple family residential living options, and is an appropriate level of density both along Las Vegas Boulevard South and to transition to the single family residences to the east; therefore, the proposed nonconforming zoning complies with policies in the Master Plan.

### **Summary**

#### Zone Change

Overall, an increased demand for housing has indicated a changing trend since the most recent adoption of the Enterprise Land Use Plan. In addition, the proposed R-4 zoning is compatible with existing and planned surrounding land uses, and the zoning will not have a negative impact on public facilities and services. Lastly, the proposed nonconforming zoning is consistent with several policies in the Master Plan. As a result, staff can support the request.

#### Waivers of Development Standards

According to Title 30, the applicant shall have the burden of proof to establish that the proposed request is appropriate for its existing location by showing that the uses of the area adjacent to the property included in the waiver of development standards request will not be affected in a substantially adverse manner. The intent and purpose of a waiver of development standards is to modify a development standard where the provision of an alternative standard, or other factors which mitigate the impact of the relaxed standard, may justify an alternative.

#### Waiver of Development Standards #1

The increase in building height is appropriate along Las Vegas Boulevard South, and the reduced height/setback ratio to the east should not create a negative visual impact. Only the side of the northernmost residential building, which is located near Chartan Avenue, is set back 44 feet from the east property line. Setbacks for the other residential buildings along the east property line range in distance from 95 feet to 157 feet. In addition, a 6 foot high screen wall with a 20 foot wide landscape buffer will be provided along the east property line. Furthermore, if an intense landscape buffer was provided along the east property line, then the buildings would only need to meet a 2:1 height/setback ratio, which would require a setback of 66 feet. Only the northernmost building would not meet the 66 foot setback. As a result, staff can support this request.

#### Design Review #1

The proposed multiple family residential development complies with several policies in the Master Plan. For example, Policy 1.1.2 encourages higher-density housing in areas with high-frequency transit, major employment centers, and existing infrastructure. Here, the multiple family residential development is near transit along Las Vegas Boulevard South located north of Cactus Avenue and south of Barbara Lane, and the site is a few miles south of the Las Vegas

Strip, which provides major employment opportunities. Also, existing infrastructure is located adjacent to the site.

Furthermore, Policy 1.3.2 encourages a mix of housing options within larger neighborhoods and multiple family residential developments. Here, the project will provide a multiple family residential development nearby single family residences and other developing multiple family residential developments.

Lastly, Policy 6.1.4 encourages compact development to maximize the use of available infrastructure, land, and transit services. Here, the 3 story multiple family residential buildings create a compact development and efficient use of the land. As a result, staff can support the design review.

#### Design Review #2

Parking lot landscaping provides many benefits including shading parking spaces, which reduces the urban heat island, and providing visual relief from expanses of impervious surfaces (asphalt). However, the plans indicate that carports will be provided over most of the parking spaces for shade, and additional landscaping is provided around the perimeter of the site, which will help provide visual relief. As a result, staff does not anticipate any negative impacts from the alternative design standards to reduce parking lot landscaping.

#### **Public Works - Development Review**

##### Waiver of Development Standards #2

The applicant is required to grant right-of-way to Clark County for a proportionate share of a 200 foot wide right-of-way on Las Vegas Boulevard South according to Title 30 and the Clark County Transportation Element. Until the Las Vegas Boulevard improvements occur, staff has no objection to the proposed non-standard improvements within the right-of-way.

##### Design Review #3

This design review represents the maximum grade difference within the boundary of this application. This information is based on preliminary data to set the worst case scenario. Staff will continue to evaluate the site through the technical studies required for this application. Approval of this application will not prevent staff from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approval.

#### **Department of Aviation**

The property lies just outside the AE-60 (60-65 DNL) noise contour for the Henderson Executive Airport, and is subject to potentially significant aircraft noise and continuing over-flights. Future demand for air travel and airport operations is expected to increase significantly. Clark County intends to continue to upgrade the Airport to meet future air traffic demand.

**Staff Recommendation**

Approval. This item has been forwarded to the Board of County Commissioners 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.

**PLANNING COMMISSION ACTION:** April 5, 2022 – APPROVED – Vote: Unanimous  
Absent: Nguyen

**Current Planning**

- Resolution of Intent to complete in 3 years;
- 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;
- Design review as a public hearing for signage;
- All lighting to be fully shielded;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a new application for a nonconforming zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that 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.

**Public Works - Development Review**

- Drainage study and compliance;
- Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;
- Traffic study and compliance;
- Full off-site improvements;
- Right-of-way dedication and grant easements for Las Vegas Boulevard South to accommodate a proportionate share of a 200 foot wide right-of-way;
- Applicant to execute and sign a License and Maintenance Agreement for any non-standard improvements within the right-of-way;
- 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.
- Applicant is advised that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals

**Department of Aviation**

- Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; that the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations which was constructed after October 1, 1998; and that funds will not be available in the future should the residents wish to have their buildings purchased or soundproofed.

**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 #0194-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

WAIVER OF DEVELOPMENT STANDARDS #1B WAS WITHDRAWN WITHOUT PREJUDICE.

**TAB/CAC:** Enterprise - approval of the zone change (design review for signage; design review for lighting plan; lighting to be pole mounted and fully shielded), waivers of development standards #1a, #2, and design reviews #1 and #3; denial of waiver of development standards #1b and design review #2.

**APPROVALS:**

**PROTESTS:** 14 cards, 7 letters

**COUNTY COMMISSION ACTION:** May 4, 2022 – HELD – To 06/08/22 – per the applicant.

**APPLICANT:** GREYSTAR DEVELOPMENT WEST, LLC

**CONTACT:** ANN PIERCE, KAEMPFER CROWELL, 1980 FESTIVAL PLAZA DR, STE 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

Nancy A. Amundsen, Director

## NOTICE OF FINAL ACTION

June 20, 2022

ANN PIERCE  
KAEMPFER CROWELL  
1980 FESTIVAL PLAZA DRIVE, SUITE 650  
LAS VEGAS, NV 89135

REFERENCE: NZC-22-0056

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 **June 08, 2022** and was **APPROVED** subject to the conditions 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.

### **CONDITIONS OF APPROVAL -**

#### **Current Planning**

- **Resolution of Intent to complete in 3 years;**
- **Per revised plans;**
- **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;**
- **Design review as a public hearing for signage;**
- **All lighting to be fully shielded;**
- **Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.**
- **Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a new application for a nonconforming zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that 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.**

#### **BOARD OF COUNTY COMMISSIONERS**

JAMES B. GIBSON, Chair · JUSTIN C. JONES, Vice Chair  
MICHAEL NAFT · MARILYN KIRKPATRICK · TICK SEGERBLOM · ROSS MILLER · WILLIAM MCCURDY II  
YOLANDA T. KING, 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

Nancy A. Amundsen, Director

## Public Works - Development Review

- **Drainage study and compliance;**
- **Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;**
- **Traffic study and compliance;**
- **Access onto Chartan Avenue shall be limited to emergency access only;**
- **Full off-site improvements on Las Vegas Boulevard South and Chartan Avenue;**
- **Giles Street improvements to consist of non-urban standards with full improvements, except sidewalk and streetlights, on the cul-de-sac;**
- **Right-of-way dedication and grant easements for Las Vegas Boulevard South to accommodate a proportionate share of a 200 foot wide right-of-way;**
- **Right-of-way dedication to include 30 feet for Chartan Avenue, 17.5 feet for Giles Street, a portion of the cul-de-sac for Giles Street as required by Public Works - Development Review, and associated spandrels;**
- **Applicant to execute and sign a License and Maintenance Agreement for any non-standard improvements within the right-of-way;**
- **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.**
- **Applicant is advised that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.**

## Department of Aviation

- **Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; that the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations which was constructed after October 1, 1998; and that funds will not be available in the future should the residents wish to have their buildings purchased or soundproofed.**

## 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 #0194-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.**

**WAIVER OF DEVELOPMENT STANDARDS #1B WAS WITHDRAWN WITHOUT PREJUDICE.**

### BOARD OF COUNTY COMMISSIONERS

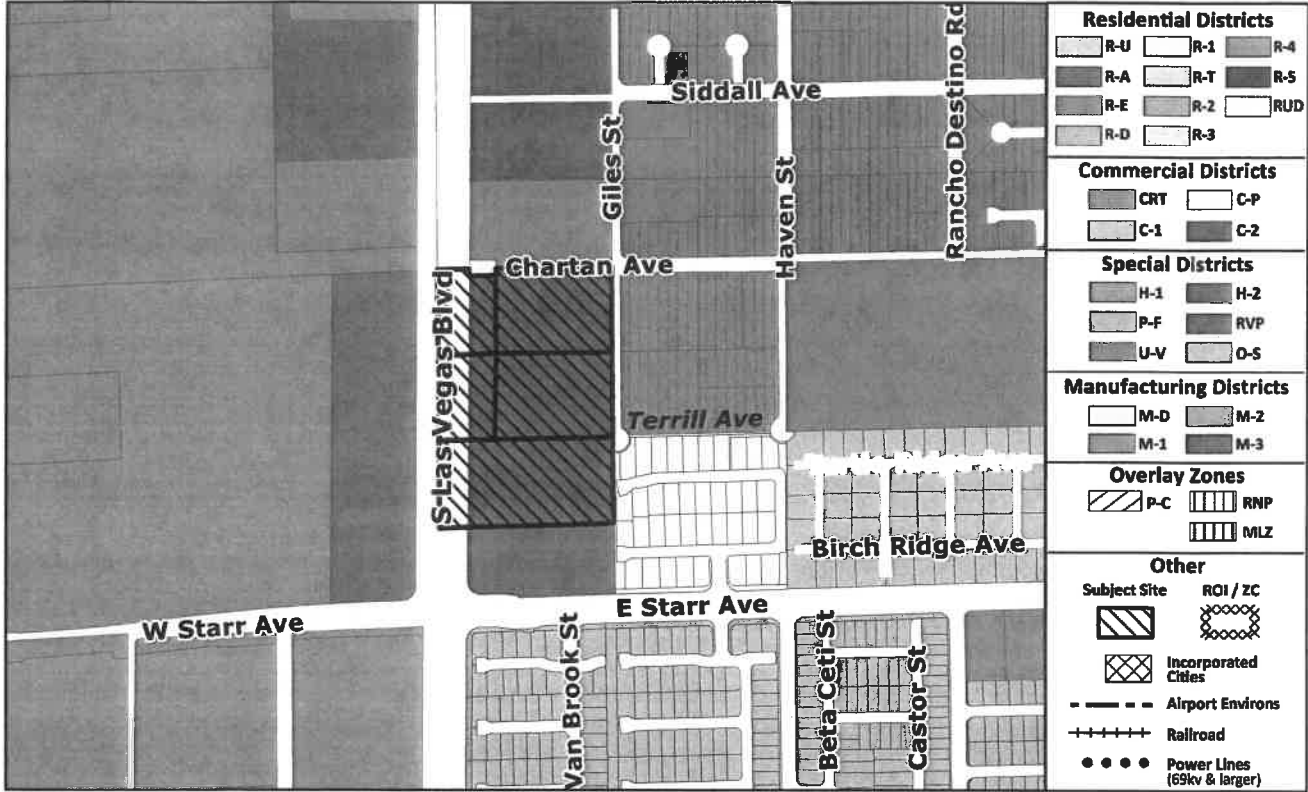
JAMES B. GIBSON, Chair · JUSTIN C. JONES, Vice Chair  
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# Commission Agenda Map

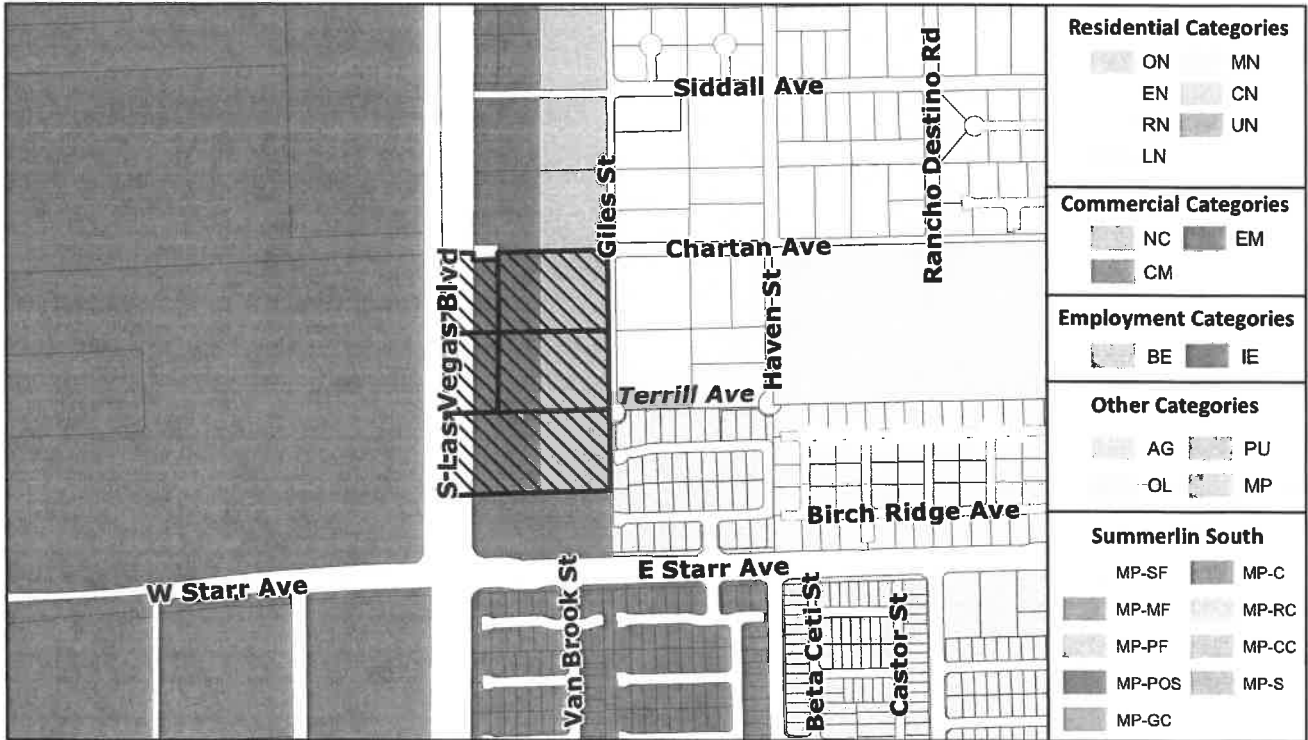
NZC-22-0056

## 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)  
 17733401001  
 17733401003  
 17733401002

See complete list on file



0 165 330 660 Feet  
 Map Created on 2/2/2022

