

SENIOR HOUSING
(TITLE 30)

ARBY AVE/TORREY PINES DR

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

NZC-23-0053-WIGWAM-PARVIN LIMITED PARTNERSHIP:

ZONE CHANGE to reclassify 5.0 acres from an R-E (Rural Estates Residential) Zone to an R-4 (Multiple Family Residential - High Density) Zone.

USE PERMIT for a senior housing project.

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** increase building height; and **2)** modified driveway design standards.

DESIGN REVIEWS for the following: **1)** senior housing project with associated structures and uses; and **2)** finished grade in the CMA Design Overlay District.

Generally located on the north side of Arby Avenue and the west side of Torrey Pines Drive within Enterprise (description on file). MN/rk/syp (For possible action)

RELATED INFORMATION:

APN:

176-02-301-019

WAIVERS OF DEVELOPMENT STANDARDS:

1. Increase the building height up to 48.5 feet where 35 feet is the standard per Table 30.40-3 (a 39% increase).
2.
 - a. Reduce throat depth to 10 feet where a minimum of 100 feet is the standard per Uniform Standard Drawing 222.1 (a 90% reduction).
 - b. Reduce the departure distance from an intersection to a driveway along Arby Avenue to 185 feet where 190 feet is the minimum per Uniform Standard Drawing 222.1 (a 2% reduction).

DESIGN REVIEWS:

1. Senior housing project.
2. Increase finished grade to 72 inches (6 feet) where a maximum of 36 inches (3 feet) is the standard per Section 30.32.040 (a 100% increase).

LAND USE PLAN:

ENTERPRISE - BUSINESS EMPLOYMENT

BACKGROUND:

Project Description

General Summary

- Site Address: N/A
- Site Acreage: 5
- Number of Units: 190
- Density (du/ac): 38
- Project Type: Senior housing
- Number of Stories: 4
- Building Height (feet): 48.5
- Open Space Required/Provided: 19,000/21,500
- Parking Required/Provided: 190/191

Neighborhood Meeting Summary

The applicant conducted a neighborhood meeting on September 21, 2022, as required by the nonconforming amendment process, prior to formal filing of this application. All owners within 1,500 feet of the project site were notified about the meeting. There were 2 attendees present at the open house meeting for this item. One neighbor to the east supported the request, while the other neighbor (an owner of 1 of the office/warehouse buildings) had concerns about the potential conflict in uses between the proposed age restricted multiple family development and light industrial development to the west. He also expressed concerns regarding the location of the proposed driveway on Arby Avenue.

Site Plans

The plans depict a proposed senior housing facility consisting of a single building near the center of the site. There will be a total of 190 units with a density of 38 dwelling units per acre. The complex will provide 1 and 2 bedroom units. The setbacks of the buildings are as follows: 81 feet to the south property line; 49 feet to the north property line; 95 feet to the east property line; and 64 feet to the west property line. Open space and landscaping are equitably distributed throughout the development and consist of active and passive open space areas which include a swimming pool. There will be 1 access point to the development from Arby Avenue to the south with a crash gate shown along Badura Avenue to the north. Internal circulation within the project consists of 25 foot wide drive aisles. Parking will consist of surface parking for both the visitors and residents with a majority of the spaces being covered.

Landscaping

Street landscaping consists of a 15 foot wide landscape area with a detached sidewalk along all 3 public street frontages. The perimeter landscaping includes a 6 foot wide landscape planter along the west interior property line with the trees 30 feet on center. The landscape materials include trees, shrubs, and groundcover. Interior to the site, open space and landscaping are equitably distributed throughout the development and consist of active and passive open space areas which include 3 recreational open space areas, a swimming pool, and deck area. The 3 recreation open space areas are on the west side of the building surrounded by 3 sides of the building in a courtyard fashion. The amount of passive and active open space is depicted at 21,500 square feet where 19,000 square feet is required.

Elevations

The residential building is 4 stories, 48.5 feet high, consisting of stucco, decorative cornice molding, canvas awnings, faux shutters, and metal balconies. The height of the building varies slightly from 41 feet to 48.5 feet and has been designed to break-up the roofline and enhance the overall look of the building. The exterior walls have a stucco finish painted in earth tone colors. The upper floor units will have balconies with wrought iron railings. The clubhouse, leasing office, and various additional amenities are internal to the building.

Floor Plans

The plans show a mix of 1 and 2 bedroom units consisting of 137, one bedroom units and 53, two bedroom units. The residential units are between 660 square feet and 960 square feet in area.

Signage

Signage is not a part of this request.

Applicant's Justification

The applicant indicates the site has a planned land use of Business Employment which allows for light industrial warehouse uses. The intensity of Business Employment which could impact additional truck traffic in the area is arguably more intense than an aged restricted multiple family development. Furthermore, the applicant states there have been recent trends in the general area for multiple family developments including 3 recent approvals for R-4 zoning on the west side of Redwood Street. Therefore, an R-4 zoned district, including an age restricted multiple family project, is appropriate for the area.

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Business Employment	C-2	Undeveloped
South	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	RUD	Single family residential
East	Compact Neighborhood (up to 18 du/ac)	RUD	Single family residential
West	Business Employment	M-D	Warehouse complex

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

Related Applications

Application Number	Request
VS-23-0054	A vacation of patent easements on the property 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

Comprehensive 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.*

The applicant indicates that there have been recent changes in the area in the last 2 years with the approval of 3 multiple family projects farther to the west across Redwood Street.

Although there are approvals of multiple family developments in the area, those developments are on the west side of Redwood Street, where the site is within the proposed single family residential developments. Therefore, staff finds that there has not been a change in law, policies, trends, or facts that have substantially changed the character or condition of the area east of Redwood Street.

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.*

The applicant indicates the site has a planned land use of Business Employment which allows for light industrial warehouse uses. The intensity of Business Employment which could impact additional truck traffic in the area is arguably more intense than an aged restricted multiple family development.

The intent of a balanced land use plan is to encourage an orderly development pattern with an appropriate spatial distribution of land uses that complement each other. Staff finds the density and intensity of the proposed project, a senior housing development with a density of 38 dwelling units per acre, is incompatible with the density of the existing RUD developments to the south and east.

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.*

The applicant states the proposed zone change will not result in any negative impacts on surrounding infrastructure not already contemplated in the area. Additionally, senior housing is generally viewed as less impactful than standard multiple family developments from a neighborhood standpoint and will not burden Clark County schools or roadways.

Service providers have not indicated that this project will cause a substantial adverse effect on public facilities and services. The facility is intended for adults aged 55 or older so there will not

be an impact to schools. There are existing public services and facilities in this area which will be utilized by this project. The plans also depict open space on site for recreational uses including a swimming pool and deck area. This open space with the recreational uses for the residents of the facility will off-set any increased demand for use of parks by the residents.

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

The applicant indicates the project accomplishes the Goals and Policies within the Master Plan, per the following: 1) The project achieves Goal 1.2.1 by expanding the number of long-term affordable housing units (the type of financing requires these apartments to stay affordable for up to 55 years); 2) The project achieves 1.1.1 by providing diversity in housing type that adds senior housing and differing income levels to the neighborhood; and 3) The project achieves 3.1.2 is met by providing strategies to reduce reliance on private automobile travel (providing in-house shuttle services to their residences).

Staff finds the proposed zoning complies with Goal 1.1 of the Master Plan that encourages opportunities for diverse housing options to meet the needs of residents of all ages, income levels and abilities. Furthermore, the proposed zoning complies with Goal 1.2 that encourages expanding the number of long-term affordable housing units available in Clark County.

Summary

Zone Change

Staff finds that there has not been a change in law and policies that make this request appropriate for the area. There has been a change in trend for development within the immediate area; however, that change is for compact lot single family residential developments not exceeding a maximum of 14 dwelling units per acre. The reclassification of this site to an R-4 zoning district would allow a density up to a maximum of 25 dwelling units per acre or 39 dwelling units per acre for a senior housing project that is incompatible with the R-2, RUD, and M-D zoning districts in the immediate area (south of Badura Avenue). Although there have been recent approvals for multiple family developments farther to the west, those developments are on the west side of Redwood Street where the proposed site is within single family residential developments and light industrial warehouse uses.

However, given the context of the area, staff does acknowledge that an age restricted multiple family project at a lower density could provide an appropriate buffer between the warehouse uses directly to the west and the existing single family subdivisions to the south and east. There are a number of goals and policies within the Master Plan which address complementary uses between existing developments. Given that senior housing is typically deemed a low impact use, this project should not have any adverse effects on adjacent properties if it was to be approved at a lower zoning category such as R-3 zoning at a maximum density of 18 dwelling units per acre or 22 dwelling units per acre for a senior housing project. However, since the proposed request does not satisfy all of the requirements of a compelling justification to warrant approval of the nonconforming zone boundary amendment to R-4 zoning, staff cannot support this request.

Use Permit

A use permit is a discretionary land use application that is considered on a case by case basis in consideration of Title 30 and the Master Plan. One of several criteria the applicant must establish is that the use is appropriate at the proposed location and demonstrate the use shall not result in a substantial or undue adverse effect on adjacent properties.

The applicant is requesting a use permit to allow this site to be developed as a senior housing project. Per Title 30, senior housing is defined as a multiple family dwelling with all units intended for and occupied by at least 1 person 55 years of age or older. As a result, traffic, impact on schools, and other infrastructure and service demands may be reduced for persons over the age of 55, as compared to a non-age restricted multiple family development. In addition, the use complies with County goals to provide housing alternatives to meet a range of lifestyle choices, ages, and affordability levels. However, since staff is not supporting the nonconforming zone boundary amendment associated with this request, staff cannot support this 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

Staff cannot support the request to increase the height of the multiple family building. Immediately to the south and east of the project site, are 2 story and single story residences that would potentially be impacted by the height increase. Additionally, the office warehouse buildings directly to the west range in height from 32 feet to 36 feet. The proposed height of the building is not compatible with the building height of the surrounding residential and industrial uses; therefore, staff does not support this request.

Design Review #1

The senior housing project provides several amenities including open space, swimming pool, clubhouse, and fitness center. Furthermore, the building includes off-set surface planes, an aesthetically pleasing color palette, and parapet walls along the roofline at various heights. However, staff is concerned with the overall height as there are existing RUD single family residential subdivisions immediately to the south and east of the project site. Therefore, since staff is not supporting the nonconforming zone boundary amendment, use permit, and waivers of development standards, staff cannot support this request.

Public Works - Development Review

Waiver of Development Standards #2a

Staff cannot support the reduction in the throat depth in that it could result in stacking of vehicles into Arby Avenue, as the Arby Avenue driveway is the only access to the site.

Waiver of Development Standards #2b

Staff has no objection to the reduction in the departure distance for the Arby Avenue commercial driveway. The applicant placed the driveway as far west as the site will allow. However, since staff cannot support this application in its entirety, staff cannot support this waiver.

Design Review #2

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. However, since staff cannot support this application in its entirety, staff cannot support this design review.

Department of Aviation

The development will penetrate the 100:1 notification airspace surface for Harry Reid International Airport. Therefore, as required by 14 CFR Part 77, and Section 30.48.120 of the Clark County Unified Development Code, the Federal Aviation Administration (FAA) must be notified of the proposed construction or alteration.

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

Staff Recommendation

Denial. This item will be forwarded to the Board of County Commissioners' meeting for final action on May 3, 2023 at 9:00 a.m., unless otherwise announced.

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.

PRELIMINARY STAFF CONDITIONS:

Comprehensive Planning

If approved:

- 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;
- 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 Master Plan amendment and a 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 to include 35 feet to the back of curb for Badura Avenue, 35 feet to the back of curb for Torrey Pines Drive, 25 feet to the back of curb for Arby Avenue and associated spandrels.
- 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; and that the installation of detached sidewalks will require dedication to back of curb and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control.

Department of Aviation

- Applicant is required to file a valid FAA Form 7460-1, "Notice of Proposed Construction or Alteration" with the FAA, in accordance with 14 CFR Part 77, or submit to the Director of Aviation a "Property Owner's Shielding Determination Statement" and request written concurrence from the Department of Aviation;
- If applicant does not obtain written concurrence to a "Property Owner's Shielding Determination Statement," then applicant must also receive either a Permit from the Director of Aviation or a Variance from the Airport Hazard Areas Board of Adjustment (AHABA) prior to construction as required by Section 30.48 Part B of the Clark County Unified Development Code; applicant is advised that many factors may be considered before the issuance of a permit or variance, including, but not limited to, lighting, glare, graphics, etc.;
- No building permits should be issued until applicant provides evidence that a "Determination of No Hazard to Air Navigation" has been issued by the FAA or a "Property Owner's Shielding Determination Statement" has been issued by the Department of Aviation.
- Applicant is advised that the FAA's determination is advisory in nature and does not guarantee that a Director's Permit or an AHABA Variance will be approved; that FAA's airspace determinations (the outcome of filing the FAA Form 7460-1) are dependent on petitions by any interested party and the height that will not present a hazard as determined by the FAA may change based on these comments; that the FAA's airspace determinations include expiration dates; that separate airspace determinations will be needed for construction cranes or other temporary equipment; 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.

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.

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 #0421-2022 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

TAB/CAC: Enterprise - denial.

PPROVALS:

PROTESTS:

APPLICANT: JAN GOYER

CONTACT: JAN GOYER, OVATION CONTRACTING INC., 6021 S. FORT APACHE ROAD #100, LAS VEGAS, NV 89148