

# 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-22-900756: Introduce an ordinance to consider adoption of a Development Agreement with Lexiland LLC for a multiple family residential development (Rainbow & Warm Springs) on 13.7 acres, generally located north of Warm Springs Road and east of Rainbow 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-21-0209 for a multiple family residential development (Rainbow & Warm Springs) on 13.7 acres, generally located north of Warm Springs Road and east of Rainbow 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 set a public hearing for March 22, 2023.

**Cleared For Agenda**

03/08/23

BILL NO. \_\_\_\_\_

SUMMARY - An ordinance to adopt a Development Agreement with Lexiland LLC for a multiple family residential development (Rainbow & Warm Springs) on 13.7 acres, generally located north of Warm Springs Road and east of Rainbow Boulevard within Enterprise.

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

**AN ORDINANCE TO ADOPT A DEVELOPMENT AGREEMENT WITH LEXILAND LLC FOR A MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT (RAINBOW & WARM SPRINGS) ON 13.7 ACRES, GENERALLY LOCATED NORTH OF WARM SPRINGS ROAD AND EAST OF RAINBOW 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 Lexiland LLC for a multiple family residential development (Rainbow & Warm Springs) on 13.7 acres, generally located north of Warm Springs Road and east of Rainbow 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): **176-02-401-022**  
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**

**LEXILAND LLC**

**FOR**

**RAINBOW & WARM SPRINGS**

**ORD-22-900756**

## **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 **LEXILAND 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-21-0209**, 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  
Attn: Joel McCulloch

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: KHUSROW ROOHANI  
PRINT OWNER NAME

ENTITY NAME: Lexiland LLC.  
PRINT ENTITY NAME

By: *K. R. Roohani*  
Owner Signature

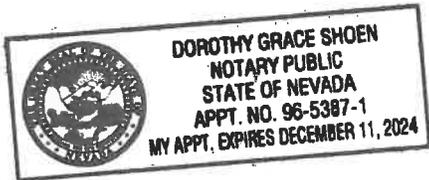
**ACKNOWLEDGMENT:**

STATE OF NEVADA        )  
                                  )ss:  
COUNTY OF CLARK     )

This instrument was acknowledged before me on the 31<sup>st</sup> day of January, 2023,  
by Khusrow Roohani  
(Printed Name of Document Signer)

NOTARY PUBLIC  
*Dorothy Grace Shoen*  
Signature

My Commission expires: 12-11-24



OWNER:  
Daniel Kramer  
PRINT OWNER NAME

ENTITY NAME:  
Lexiland LLC  
PRINT ENTITY NAME

By:   
Owner Signature

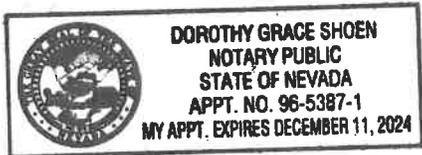
**ACKNOWLEDGMENT:**

STATE OF NEVADA        )  
                                  )ss:  
COUNTY OF CLARK     )

This instrument was acknowledged before me on the 31st day of January, 2023  
by Daniel Kramer  
(Printed Name of Document Signer)

NOTARY PUBLIC  
  
Signature

My Commission expires: 12-11-24



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

**(see next page for attachment)**

LEGAL DESCRIPTION  
REDWOOD APARTMENTS

ALL THAT CERTAIN PARCEL OF LAND AS SHOWN ON THE CERTAIN REVERSIONARY FINAL MAP, AS SHOWN BY MAP THEREOF IN FILE 141 OF PLATS, PAGE 69, AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, BEING FURTHER DESCRIBED AS FOLLOWS:

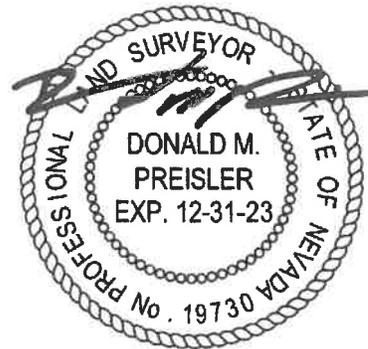
LOT 1 OF RAINBOW AND WARM SPRINGS, A ONE LOT COMMERCIAL SUBDIVISION, RECORDED IN BOOK 139, PAGE 38 OF PLATS TOGETHER WITH PROMENADE AT RAINBOW MIXED USE – PHASE 1, A COMMERCIAL/RESIDENTIAL CONDOMINIUM, RECORDED IN BOOK 140, PAGE 18 OF PLATS, ALL BEING REVERTED TO ACREAGE BY REVERSIONARY MAP RECORDED IN BOOK 141, PAGE 69 OF PLATS, OFFICIAL RECORDS, CLARK COUNTY, NEVADA, LOCATED IN THE SOUTH HALF (S 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) SOUTHWEST QUARTER (SW 1/4) OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M, CLARK COUNTY.

TOGETHER WITH THE PUBLIC RIGHT-OF-WAY VACATED IN BOOK 20211110, DOCUMENT NUMBER 03022, OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM THE AREA DEDICATED TO CLARK COUNTY IN BOOK 20211110, DOCUMENT NUMBER 03023, OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

CONTAINS 13.61 ACRES.

END OF DESCRIPTION.



11-03-2022

**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**

Lexiland LLC Etal

---

9500 Hillwood Dr. Suite 201

---

Las Vegas NV. 89134

---

**Applicant/Correspondent**

The WLB Group, INC

---

3663 E Sunset Road, Suite 204

---

Las Vegas, Nevada 89120

---

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

**(see next page for attachments)**

MULTIPLE FAMILY RESIDENTIAL  
(TITLE 30)

**UPDATE**  
WARM SPRINGS RD/REDWOOD ST

**PUBLIC HEARING**

**APP. NUMBER/OWNER/DESCRIPTION OF REQUEST**

**NZC-21-0209-LEXILAND, LLC, ETAL & ROOHANI KHUSROW FAMILY TRUST:**

**ZONE CHANGE** to reclassify 13.7 acres from a C-2 (General Commercial) Zone to an R-4 (Multiple Family Residential - High Density) Zone.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: 1) building height; and 2) parking.

**DESIGN REVIEWS** for the following: 1) multiple family residential development; and 2) finished grade in the CMA Design Overlay District.

Generally located on the north side of Warm Springs Road, the west side of Redwood Street, and the south side of Capovilla Avenue within Enterprise (description on file). MN/jt/jd (For possible action)

**RELATED INFORMATION:**

**APN:**

176-02-401-022

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Increase building height to 37 feet where 35 feet is the maximum allowed per Table 30.40-3 (a 6% increase).
2. Reduce parking to 598 spaces (previously notified as 586) where 627 spaces are required per Table 30.60-1 (a 5% reduction) (previously notified as a 7% reduction).

**DESIGN REVIEWS:**

1. Multiple family residential development.
2. Increase finished grade to 88 inches where a maximum of 18 inches is the standard per Section 30.32.040 (a 389% increase).

**LAND USE PLAN:**

ENTERPRISE - BUSINESS AND DESIGN/RESEARCH PARK  
ENTERPRISE - COMMERCIAL GENERAL

**BACKGROUND:**

**Project Description**

**General Summary**

- Site Address: N/A
- Site Acreage: 13.7

- Number of Units: 330
- Density (du/ac): 21.4
- Project Type: Multiple family residential development
- Number of Stories: 3
- Building Height (feet): 37
- Open Space Required/Provided: 33,000/118,616
- Parking Required/Provided: 627/598

### **Neighborhood Meeting Summary**

The required notices were mailed to a 1,500 foot radius from the project site notifying property owners of a neighborhood meeting, which was held virtually on March 4, 2021 at 5:30 p.m. One person attended the meeting, and the attendee was in support of the project.

### Site Plan

The site plan depicts a multiple family residential development with a gated entrance/exit provided from Warm Springs Road along the south side of the site. A secondary exit-only driveway is provided in the northeast portion of the site onto Redwood Street. Pedestrian access gates are provided to the Capovilla Avenue cul-de-sac to the north and Redwood Street to the east. Twenty separate multiple family residential buildings are located throughout the site, and overall setbacks include 70 feet to the northern property line, 20 feet to the eastern property line along Redwood Street, 30 feet to the southern property line along Warm Springs Road, and 15 feet to the western property line. The need for increased grade is due to topography as the site is lower towards the center.

Internal drive aisles provide access to parking spaces throughout the site, which include open parking spaces, parking spaces covered by carports, and garages. A waiver of development standards is necessary to reduce parking to 598 spaces where 627 spaces are required. The reduction in parking spaces mostly consists of the additional parking requirement due to enclosed spaces. Since 200 parking spaces are provided in garages, an additional 40 parking spaces are required. The applicant is proposing to reduce parking by 29 spaces.

An amenity area is centrally located on the site, which includes a recreation building, fitness building, and pool with shade structures. Over 118,000 square feet of open space is provided where 33,000 square feet is required.

### Landscaping

Perimeter landscaping meets Title 30 standards. East of the Capovilla Avenue cul-de-sac, perimeter landscaping along the northern property line includes a 10 foot wide landscape strip. Adjacent to Capovilla Avenue and behind an attached sidewalk, landscaping includes a 6 foot wide landscape strip, a wrought iron fence, and a 10 foot wide landscape strip. Along Redwood Street and behind an attached sidewalk, landscaping includes a 10 foot wide landscape strip and a wrought iron fence. Along the south property line adjacent to Warm Springs Road, landscaping includes a 5 foot wide landscape strip, a detached sidewalk, and a 5 foot wide landscape strip. A wrought iron fence is located behind the landscaping. Along the west property line, landscaping includes a 10 foot wide landscaping strip.

Internal to the site, landscaping is provided throughout the parking lot, between buildings, and within the amenity areas.

Elevations

The 3 story multiple family residential buildings extend up to 37 feet in height, which requires a waiver of development standards. Exterior materials include painted stucco with a cool gray palette, stone veneer, railing around balconies, and metal awnings. Additionally, the apparent mass of the building is reduced by off-set surface planes and parapet walls along the roofline at different heights.

Floor Plans

Overall, the project includes 115, one bedroom units and 215, two bedroom units. A recreation building near the center of the site, which includes a clubhouse, leasing center, and restrooms is 4,500 square feet. A separate fitness studio, pool equipment, and maintenance building is 2,443 square feet.

Signage

Signage is not a part of this request.

Applicant's Justification

According to the applicant, the project is appropriate at this location, consistent with the goals and policies in the Comprehensive Master Plan, and compliant with the intent of Title 30. In addition, the applicant states that the alternative design standards are appropriate. For example, the increased finished grade is due to the topography of the site and to maintain proper drainage. Additionally, the reduction in parking is less than 10%, and the increase in building height will accommodate higher ceiling heights and supplementary architectural features along the roofline to enhance the visual appeal.

**Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
LUP-20-700005	Request to redesignate the land use category to RUC (Residential Urban Center) - process cancelled	N/A	N/A
ZC-1929-05 (ET-0002-09)	First extension of time to reclassify the site to U-V zoning for a mixed-use development - expired	Approved by BCC	April 2009
WS-0296-07	Allowed construction noise during non-daytime hours - expired	Approved by PC	May 2007
DR-1554-06	Signage, lighting, and parking - expired	Approved by BCC	December 2006
TM-0227-06	479 residential condominium units - expired	Approved by PC	July 2006
ZC-1929-05	Reclassified the site to U-V zoning for a mixed-use development - expired	Approved by BCC	January 2006

**Prior Land Use Requests**

Application Number	Request	Action	Date
ZC-1607-03	Reclassified the western portion of the site to C-2 zoning	Approved by BCC	November 2003
ZC-0850-03	Reclassified the central portion of the site to C-2 zoning	Approved by BCC	July 2003
ZC-1623-02	Reclassified the eastern portion of the site to C-2 zoning	Approved by BCC	December 2002

**Surrounding Land Use**

	Planned Land Use Category	Zoning District	Existing Land Use
North	Commercial General & Business and Design/Research Park	C-2 & U-V	Undeveloped
South	Residential High (8 du/ac to 18 du/ac) & Commercial General	R-3 & C-2	Single family subdivision & shopping center
East	Residential High (8 du/ac to 18 du/ac)	R-3	Multiple family residential
West	Commercial General	C-2	Shopping center

**Related Applications**

Application Number	Request
VS-21-0210	A vacation and abandonment of easements and right-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.*

Since the 2014 adoption of the Enterprise Land Use Plan, substantial commercial and employment development have been approved in the area. For example, Rainbow Boulevard is an arterial street that is predominately planned for commercial uses. With this additional commercial development, the demand for housing has increased. This constitutes a change in

trends since the previous adoption of the Enterprise Land Use Plan that would make the proposed R-4 zoning 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.*

The area northwest of this site is planned for Commercial General uses, and the area northeast of the site was approved for a mixed-use development with a density of 27 dwelling units per acre and a height of 42 feet. East of the site across Redwood Street is an R-3 zoned multiple family residential development with 360 units and a density of 17.7 dwelling units per acre. South of the site across Warm Springs Road is a single family residential development with 7.6 dwelling units per acre and a shopping center, which includes a grocery store. Directly west of the site is an additional shopping center. Therefore, the proposed R-4 zoning is compatible with the density and intensity of existing and planned land uses in the area, and it will provide an appropriate transition from the R-3 zoned multiple family development to the east and the R-3 zoned single family development to the south to the more intense commercial development to the west.

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 the utility purveyors that the proposed nonconforming zone boundary amendment would create an adverse effect on public facilities and services. However, the Clark County School District indicates that Canarelli Middle School and Sierra Vista High School were over capacity for the 2020-2021 school year.

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

The proposed nonconforming zone boundary amendment conforms to several goals and policies in the Comprehensive Master Plan. For example, Goal 2 encourages, in part, providing opportunities to mix uses such as commercial, office, and multiple family residential near one another. In addition, Goal 10 promotes higher intensity activity centers with multiple uses such as business, commercial, and multiple family residential. Lastly, Growth Management, Community Design Policy 6 encourages the adjacency of living and employment opportunities; therefore, the location of the proposed R-4 residential zoning district is appropriate adjacent to the existing and planned commercial development.

## **Summary**

### Zone Change

A substantial increase in commercial development in the area since the last adoption of the Enterprise Land Use Plan has contributed to an increased demand for housing. In addition, the proposed R-4 zoning is compatible with the density and intensity of the surrounding development and planned uses. Lastly, the utility purveyors have not indicated that the zoning would negatively impact public facilities and services, and the proposed zoning complies with goals and policies in the Comprehensive Master Plan; therefore, staff can support the nonconforming zone boundary amendment to R-4 zoning.

### 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 location of the proposed development is adjacent to existing commercial development to the west, which includes buildings up to 34 feet high, and planned commercial development to the northwest, which could allow buildings up to 50 feet high. In addition, the adjacent mixed-use project to the northeast was approved at a height of 42 feet. Lastly, the abutting existing residential development is separated from the site by Redwood Street and Warm Springs Road; therefore, the increase in height is appropriate for the area, and it will not create any negative visual impacts. In fact, the additional height will add architectural interest to the roofline by helping to break-up the visual mass of the buildings.

#### Waiver of Development Standards #2

Land Use Goal 3 encourages, in part, opportunities to reduce automobile dependence, and Goal 4 encourages, in part, pedestrian connections between all development types. The location of the development and surrounding pedestrian access gates will encourage residents to walk to the adjacent and abutting commercial development, including the grocery store to the southwest. This will help reduce automobile dependence, reduce air pollution, and reduce the demand for parking spaces. As a result, staff does not anticipate any negative impacts from the overall reduction in parking spaces, which is less than 10%.

#### Design Review #1

The proposed multiple family residential development complies with several Urban Specific Policies in the Comprehensive Master Plan. For example, Policy 51 encourages several amenities such as usable open space, swimming pools, and community centers; Policy 54 encourages multiple family buildings to be oriented in varying directions to avoid the monotony of a linear pattern; and Policy 55 encourages design alternatives to reduce the visual mass of buildings. With this development, the project provides several amenities including open space, a swimming pool, clubhouse, and fitness center. In addition, the buildings are oriented at different directions throughout the site, and the buildings include off-set surface plans, a pleasing color

palette, and parapet walls along the roofline at various heights; therefore, the development complies with policies in the Comprehensive Master Plan, and staff can support the request.

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

#### **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.

### **Department of Aviation**

The property lies just outside the AE-60 (60-65 DNL) noise contour for the McCarran 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 McCarran International Airport facilities 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 Comprehensive Master Plan, Title 30, and/or the Nevada Revised Statutes.

**PLANNING COMMISSION ACTION:** July 6, 2021 – APPROVED – Vote: Unanimous  
Absent: Stone, Kirk

### **Current Planning**

- Resolution of Intent to complete in 3 years;
- 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 to include 5 feet for Redwood Street, and a portion of a cul-de-sac for Capovilla Avenue as determined by Public Works - Development Review;
- 30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements;
- 90 days to record required right-of-way dedications and any corresponding easements;
- Vacate the right-of-way for the elbow on Capovilla Avenue as determined by Public Works - Development Review;
- If required by the Regional Transportation Commission (RTC), vacate the existing bus turnout right-of-way and related easements and dedicate right-of-way and new easements and construct a combination bus turnout/right turn lane at the entrance to the site on Warm Springs Road, including 5 foot by 25 foot passenger loading/shelter area in accordance with RTC standards.
- Applicant is advised 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; and 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.

**Building Department - Fire Prevention**

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

**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](mailto:sewerlocation@cleanwaterteam.com) and reference POC Tracking #0024-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

**TAB/CAC: Enterprise - approval (design review as a public hearing for lighting and signage; install passive amenities in the open areas; and provide centerline barrier or protected left turn from main entrance along Warm Springs Road).**

**APPROVALS: 2 cards**

**PROTESTS: 10 cards**

**APPLICANT: WARMINGTON GROUP**

**CONTACT: THE WLB GROUP, 3663 E. SUNSET ROAD, SUITE 204, LAS VEGAS, NV 89120**



# 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

August 16, 2021

THE WLB GROUP  
3663 E. SUNSET ROAD, SUITE 204  
LAS VEGAS, NV 89120

REFERENCE: NZC-21-0209

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 **August 04, 2021** 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;**
- **Work with the Las Vegas Metropolitan Police Department for the installation of security cameras and surveillance operation;**
- **Lease agreements for the units shall stipulate that garages shall be limited to parking and that they can be inspected monthly to verify that they are not being used for storage;**
- **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;**

**BOARD OF COUNTY COMMISSIONERS**  
MARILYN KIRKPATRICK, Chair · JAMES B. GIBSON, Vice Chair  
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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

- **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 5 feet for Redwood Street, and a portion of a cul-de-sac for Capovilla Avenue as determined by Public Works - Development Review;**
- **30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements;**
- **90 days to record required right-of-way dedications and any corresponding easements;**
- **Vacate the right-of-way for the elbow on Capovilla Avenue as determined by Public Works - Development Review;**
- **If required by the Regional Transportation Commission (RTC), vacate the existing bus turnout right-of-way and related easements and dedicate right-of-way and new easements and construct a combination bus turnout/right turn lane at the entrance to the site on Warm Springs Road, including 5 foot by 25 foot passenger loading/shelter area in accordance with RTC standards.**
- **Applicant is advised 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; and 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.**

## Building Department - Fire Prevention

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

## 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 #0024-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.**

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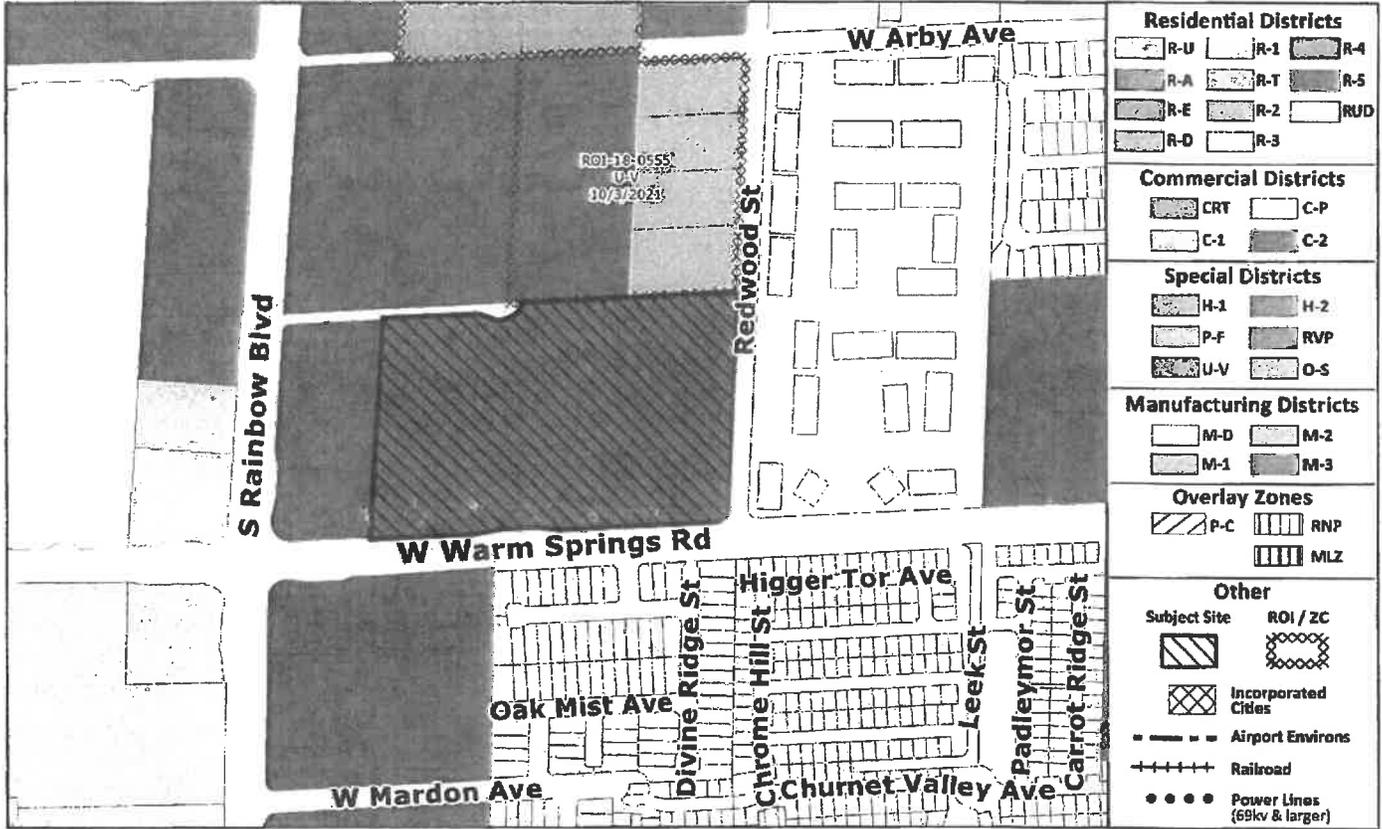
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# Commission Agenda Map

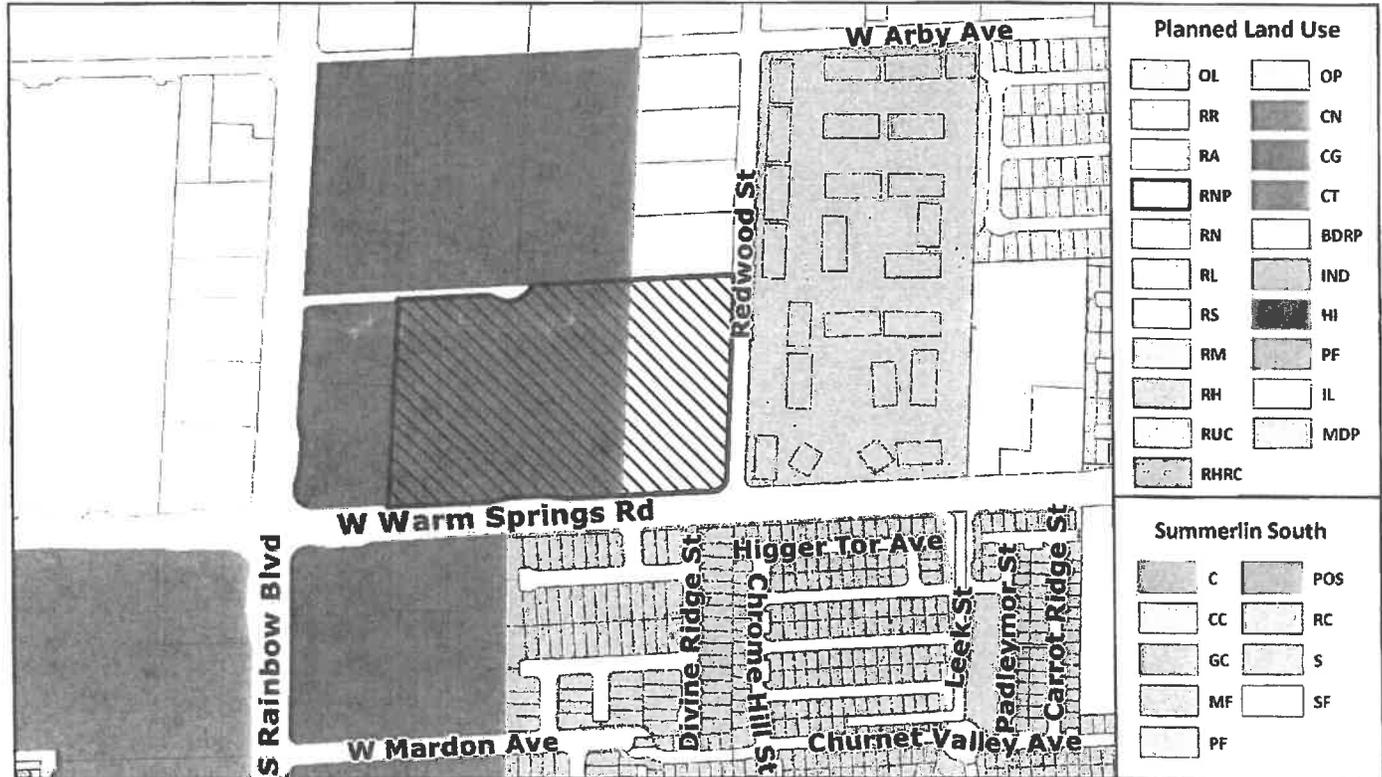
NZC-21-0209

Clark County Department of Comprehensive Planning, Clark County, Nevada

## ZONING



## 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)  
17602401022



0 125 250 500 Feet  
Map Created on 5/11/2021

