

# 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-21-900563: Introduce an ordinance to consider adoption of a Development Agreement with Touchstone MGC, LLC for a residential subdivision (Maule and Grand Canyon) on 5.3 acres, generally located east of Grand Canyon Drive and north of Maule Avenue within Spring Valley. JJ/ab (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-20-0518, for a residential subdivision (Maule and Grand Canyon) on 5.3 acres, generally located east of Grand Canyon Drive and north of Maule Avenue within Spring Valley. Conditions of approval included the developer and/or owner entering into a Development Agreement prior to any permits being issued in order to provide their fair-share contribution towards public infrastructure necessary to provide service in the southwest portion of the Las Vegas Valley.

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

Staff recommends the Board set a public hearing for November 3, 2021.

Cleared For Agenda  
10/20/21

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

SUMMARY - An ordinance to adopt the Development Agreement with Touchstone MGC, LLC for a residential subdivision (Maule and Grand Canyon) on 5.3 acres, generally located east of Grand Canyon Drive and north of Maule Avenue within Spring Valley.

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

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH TOUCHSTONE MGC, LLC FOR A RESIDENTIAL SUBDIVISION (MAULE AND GRAND CANYON) ON 5.3 ACRES, GENERALLY LOCATED EAST OF GRAND CANYON DRIVE AND NORTH OF MAULE AVENUE WITHIN SPRING VALLEY, 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, the Development Agreement with Touchstone MGC, LLC for a residential subdivision (Maule and Grand Canyon) on 5.3 acres, generally located east of Grand Canyon Drive and north of Maule Avenue within Spring Valley, 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 \_\_\_\_\_, 2021

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

PASSED on the \_\_\_\_\_ day of \_\_\_\_\_, 2021

VOTE:

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

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

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\_\_\_\_\_  
ABSTAINING:

\_\_\_\_\_  
\_\_\_\_\_  
ABSENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

By: \_\_\_\_\_  
MARILYN K. KIRKPATRICK, Chair

ATTEST:

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

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day  
of \_\_\_\_\_ 2021.

APN(s): **176-06-601-007**

Please Return to: Joel McCulloch

Comprehensive Planning Department

1<sup>st</sup> Floor, Clark County Government Center

500 Grand Central Parkway

Las Vegas, Nevada 89155

**DEVELOPMENT AGREEMENT**

**BETWEEN**

**THE COUNTY OF CLARK**

**AND**

**TOUCHSTONE MGC LLC**

**FOR**

**MAULE AND GRAND CANYON**

**ORD-21-900563**

# 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 **TOUCHSTONE MGC 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 and refers to the following:

(i) 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 Planned Community, 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 Planned Community, unless and until the parties agree that the development of the Planned Community 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) "CCRFCD" means the Clark County Regional Flood Control District.
- (f) "Code" means the Clark County Code, including all rules, regulations, standards, criteria, manuals and other references adopted herein.
- (g) "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 **ZC-20-0518**, the Agenda Sheet, Notice of Final Action and agenda map attached hereto as Exhibit "C" and incorporated herein by this reference.
- (h) "County" means the County of Clark, State of Nevada together with its successors and assigns.
- (i) "County Commission" means the Board of County Commissioners or Planning Commission of the County of Clark, State of Nevada.
- (j) "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.
- (k) "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.
- (l) "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.
- (m) "NDOT" means Nevada Department of Transportation.
- (n) "NRS" means Nevada Revised Statutes.
- (o) "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.
- (p) "Planned Community" means the Subject Property and the proposed development of the Subject Property described in this Agreement.
- (q) "Street Improvements" means public or private facilities that may include but are not limited to fire hydrants, sidewalks, curbs, gutters, pavement, gravel, aggregate base, streetlights, street name signs, traffic signals and signs, pavement markings, other applicable traffic control

devices, survey monuments, flood control and drainage facilities which are permitted within public rights-of-way as required by the County.

(r) "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".

(s) "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 Planned Community 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 Clark County 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 Planned Community 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 Planned Community 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 Planned Community. 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 Planned Community 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 Planned Community 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 PLANNED COMMUNITY**

3.01 Time for Construction and Completion of the Planned Community. 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 Planned Community. Nothing herein shall be construed to require the Owner to develop the Planned Community 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 Planned Community 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 Planned Community may proceed as if all of it were in an area designated "Community District 2" notwithstanding that portions of the Planned Community which otherwise have the characteristics of "Community District 3".



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 Planned Community 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 Planned Community. 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 Planned Community 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 Planned Community, 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><br>(per dwelling unit) | <b>\$532.93</b>                | <b>\$900.81</b>                  | <b>\$1433.74</b> |
| <b>Multi Family Dwelling Unit</b><br>(per dwelling unit)  | <b>\$532.93</b>                | <b>\$883.24</b>                  | <b>\$1416.17</b> |
| <b>Retail</b><br>(per square foot gross floor area)       | <b>N/A</b>                     | <b>\$0.60</b>                    | <b>\$0.60</b>    |
| <b>Office</b><br>(per square foot gross floor area)       | <b>N/A</b>                     | <b>\$0.67</b>                    | <b>\$0.67</b>    |
| <b>Industrial</b><br>(per square foot gross floor area)   | <b>N/A</b>                     | <b>\$0.40</b>                    | <b>\$0.40</b>    |
| <b>Hotel</b><br>(per room)                                | <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 for parks in Chart 4.01-A above, Owner agrees that this development is subject to the Residential Construction Tax, as set forth and defined in Nevada Revised Statutes.

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 Transportation 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 Planned Community 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 Planned Community 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-reference 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 their 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, they 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 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, 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 Planned Community within the area covered by a recorded subdivision map shall be subject to the obligations of Owner as to the portion of the Planned Community 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 Planned Community.

(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 Planned Community 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 Planned Community.

(d) Financial Transactions. Owner has full discretion and authority to transfer, assign or encumber the Planned Community 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 there from, 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.

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 Planned Community. 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 Planned Community. 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 residential lot 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 a building permit for the construction of a residence thereon.

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(p) 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: \_\_\_\_\_  
Marilyn K. Kirkpatrick, 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:

Dustin Manning

PRINT OWNER NAME

By: [Signature]

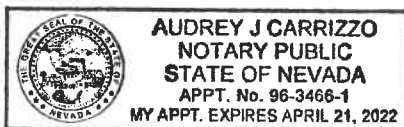
Owner Signature

**ACKNOWLEDGMENT:**

STATE OF NEVADA )

)SS:

COUNTY OF CLARK )



This instrument was acknowledged before me on the 4 day of OCTOBER, 2021,

by DUSTIN MANNING  
(Printed Name of Document Signer)

NOTARY PUBLIC

[Signature]

Signature

My Commission expires: April 21, 2022

**Exhibit “A”**  
**Legal Description**

**(see next page for attachment)**

176-06-601-007

**LEGAL DESCRIPTION**

THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM, THAT PORTION DEDICATED TO CLARK COUNTY FOR RIGHT-OF-WAY PURPOSES AS DESCRIBED IN THAT CERTAIN INSTRUMENT NUMBER 20210301-0002329 OF CLARK COUNTY, NEVADA, OFFICIAL RECORDS.

SAID PARCEL CONTAINS 4.46 ACRES, MORE OR LESS.

STEVEN M DUMOVICH, PLS  
NEVADA CERT. NO. 14347  
6030 S JONES BLVD  
LAS VEGAS, NEVADA 89118



**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**

Touchstone MGC LLC  
9205 W. Russell Rd., Suite 235  
Las Vegas, NV 89148

**Applicant/Correspondent**

Taney Engineering Attn: Elisha Scrogum  
6030 S. Jones Blvd.  
Las Vegas, NV 89118

**Exhibit “C”**

**Agenda Sheet, Notice of Final Action, and Agenda Map**

**(see next page for attachments)**

PLANNED UNIT DEVELOPMENT  
(TITLE 30)

**UPDATE**  
GRAND CANYON DR/MAULE AVE

PUBLIC HEARING  
APP. NUMBER/OWNER/DESCRIPTION OF REQUEST  
**NZC-20-0518-MAULE GRAND CANYON, LLC:**

**HOLDOVER ZONE CHANGE** to reclassify 5.3 acres from C-2 (General Commercial) Zone to RUD (Residential Urban Density) Zone.

**USE PERMIT** for an attached (townhouse) planned unit development.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** reduce setback for residential units to a street; **2)** reduce private street width; **3)** reduce street intersection off-set; **4)** allow modified private residential driveway design; **5)** reduce back of curb radii for private streets; and **6)** reduce the throat depth for a call box.

**DESIGN REVIEWS** for the following: **1)** an attached single family residential planned unit development; and **2)** increased finished grade.

Generally located on the east side of Grand Canyon Drive and the north side of Maule Avenue within Spring Valley (description on file). JJ/rk/jd (For possible action)

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**RELATED INFORMATION:**

**APN:**  
176-06-601-007

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Reduce setback for residential units to a street to 3 feet where a minimum of 10 feet is required per Section 30.24.080 (a 70% reduction).
2. Reduce the width of a private street to 30 feet where a minimum of 37 feet with 36 feet of drivable surface is required per Chapter 30.52 (a 19% reduction).
3. Reduce street intersection off-set to 91 feet where a minimum of 125 feet is required per Chapter 30.52 (a 27% reduction).
4.
  - a. Reduce the setback for a private residential driveway to 2 feet where a 12 foot setback from the back of curb return is standard per Uniform Standard Drawing 222 (an 83% decrease).
  - b. Reduce the setback for a private residential driveway to 1 foot where a 6 foot setback from property line is standard per Uniform Standard Drawing 222 (an 83% decrease).
5. Reduce back of curb radii for private streets to 5 feet and 15 feet where a minimum of 20 feet is the standard per Uniform Standard Drawing 201 (a 75% and 25% reduction respectively).
6. Reduce the throat depth for a call box on Grand Canyon Drive to 50 feet where 100 feet is the standard per Uniform Standard Drawing 222.1 (a 50% reduction).



**DESIGN REVIEWS:**

1. An attached (townhouse) planned unit development.
2. Increase finished grade up to 192 inches (16 feet) where a maximum of 18 inches (1.5 feet) is the standard per Section 30.32.040 (a 967% increase).

**LAND USE PLAN:**

SPRING VALLEY - COMMERCIAL GENERAL

**BACKGROUND:****Project Description****General Summary**

- Site Address: N/A
- Site Acreage: 5.3
- Number of Lots: 68
- Density (du/ac): 12.9
- Minimum/Maximum Lot Size (square feet): 1,335/2,051
- Project Type: Attached (townhouse) planned unit development
- Number of Stories: 3
- Building Height (feet): 35
- Square Feet: 1,951/1,989
- Open Space Required/Provided: 17,070/19,137
- Parking Required/Provided: 177/177

**Neighborhood Meeting Summary**

The applicant conducted a neighborhood meeting on September 14, 2020, 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 3 attendees present at the virtual (Zoom) meeting for this item. The attendees had questions on the design and layout of the project. Further issues that were discussed were related to reducing density, constructing luxury homes instead of townhomes, adding architectural enhancements for more curb appeal, improving landscaping, and providing barricades during construction to protect pedestrians and bicyclist. In addition, the representative received 4 emails and 1 call in opposition to the request.

**Site Plan**

This request is for a nonconforming zone change to reclassify approximately 5.3 acres to an RUD zone for a proposed attached (townhouse) planned unit development. The plans depict an attached single family residential development consisting of 68 residential lots with a density of 12.9 dwelling units per acre. The development consists of townhouse, residential dwellings under separate ownership that are attached to 1 or more dwellings on opposite sides of the structure.

The proposed development features a total of 17 buildings, each containing 4 units that are adjacent to 30 foot wide private streets. The street network consists of 1 main driveway with a loop street and 2 stub streets toward the southern portion of the site. The townhomes are designed with garages facing the private streets. The development will be served by a single point of

ingress/egress to the north from Grand Canyon Drive. A network of common open spaces is located throughout the development which will include on-site pedestrian paths, recreational pool area, and a dog park. Parking will consist of garage parking for residents and designed surface off-street parking for visitors. Approximately 41 parking spaces are shown for the visitors and 136 parking spaces are provided for the residents. The plans also depict that the finished grade of the site will be increased up to 16 feet on a portion of the parcel's north half where there is a drainage easement/wash.

Per Title 30, many of the development standards for planned unit developments are established by a use permit process based on the plans that are approved for the project by the Board of County Commissioners. The minimum setbacks for each of the townhouse units are the following:

- Front face of garage - 8 feet (from the edge of the private street)
- Front living area/architectural intrusions - 3 feet
- Side street (corner) yard - 6 feet
- Interior side yard - 5 feet
- Rear yard - 10 feet
- Perimeter - 10 feet

#### Landscaping

Street landscaping consists of a 15 foot wide area which includes 5 foot wide detached sidewalk along Grand Canyon Drive and Maule Avenue. Along the north property line there is a 10 foot wide landscape buffer with intense landscaping per Figure 30.64-12. Internal to the site a network of common open space areas are located throughout the development which will include on-site pedestrian paths, recreational pool area, and a dog park. The development requires 17,070 square feet of open space where 19,137 square feet of open space is provided.

#### Elevations

The proposed building type for the project is attached buildings which includes up to 2 different model types each with 1 elevation. All buildings will have unified and consistent architecture. The building materials generally consist of stucco siding and pop-out elements that include vertical and horizontal articulation and additional facade relief on select portions of the horizontal planes. The elevations also depict substantial window and door enhancements consisting of elements such as composite wood trim, balconies, and stucco pop-outs at a scale consistent with single family residential buildings. The roofs are pitched and consist of concrete tile. The attached units are all shown at 3 stories and 35 feet high.

#### Floor Plans

The plans depict 3 bedroom units with 2 different floor plans that range from 1,951 square feet to 1,989 square feet. The first floor of every unit will contain a 2 car garage.

#### Applicant's Justification

The applicant indicates since the proposed development is at a lower density than other attached residential developments and will serve as a transitional land use from the single family R-2 developments to the north and the commercial development to the east, the project is appropriate and compatible with adjacent developments. The proposed project will have less impacts on the

area than the approved land use of Commercial General. It will generate less traffic and have a similar use (dwellings) as most of the area.

According to the applicant, the wavier of standards is appropriate since the development is lower density than typical attached developments. The reduced setbacks to the street are internal to the subdivision street and will not impact the adjacent properties or future residence of the development. Furthermore, the reduced street width is suitable since the streets function as a drive aisle, providing access to garages similar to multiple family developments. There will be no parking allowed on either side of the street, parking is only allowed in the garages and designated parking stalls. The design will meet all fire access requirements and meet turning movement requirements. Since the existing channel on the property is no longer functioning as a channel it is necessary to fill the channel to reclaim the area to use for development, resulting in the increased grade from the bottom of the channel up to 16 feet.

#### Prior Land Use Requests

| Application Number | Request  | Action          | Date     |
|--------------------|--|-----------------|----------|
| ZC-0386-01         | Reclassified this site to C-2 zoning for a retail center consisting of a convenience store, tavern, restaurant, and bank | Approved by BCC | May 2001 |

#### Surrounding Land Use

|       | Planned Land Use Category  | Zoning District | Existing Land Use  |
|-------|--|-----------------|--|
| North | Residential Suburban (up to 8 du/ac)   | R-2             | Existing single family residential                           |
| South | Major Development Project (Summerlin South) - Public Facilities & Single Family Residential (up to 10 du/ac) | P-F & R-2       | Undeveloped; partially constructed single family residential |
| East  | Commercial General   | C-2             | RV Storage & mini-warehouse complex; retail building         |
| West  | Major Development Project (Summerlin South) - Single Family Residential (up to 10 du/ac)                     | R-2             | Partially constructed single family residential              |

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

#### Related Applications

| Application Number | Request   |
|--------------------|---|
| VS-20-0519         | A vacation of government patent easements and a public drainage easement is a companion item on this agenda.                  |
| TM-20-500178       | A tentative map to subdivide the site into 68 single family residential lots on 5.3 acres 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.*

According to the applicant since the adoption of the Spring Valley Land Use Plan in 2014, the area west and south of this property has begun to develop as a single family residential development. In addition, to the southwest of this site across Maule Avenue an elementary school was just recently constructed which provides further evidence of the changing character and conditions of the area.

Although there is existing and approved suburban residential development in the area, those developments were planned for that type of zoning whereas this site is not. The subject property is designated Commercial General in the Spring Valley Land Use Plan. Immediately east of this site is existing C-2 commercial development. That site in combination with the subject parcel totals 10 acres. Title 30 states that the intent of the C-2 zoning district is for sites which are 10 acres or greater. Therefore, staff finds there are no unique or special circumstances that have occurred in the immediate area since the adoption of the Spring Valley Land Use Plan to make this request 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 applicant indicates having a townhouse development on the corner of Grand Canyon Drive and Maule Avenue is less intense than the approved C-2 zoning on this site. Similar compact residential uses have developed in the area. Therefore, the land use and intensity proposed with this development are consistent and compatible with the existing nearby land use designations.

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. This request is for an attached residential townhouse development on the corner of Grand Canyon Drive and Maule Avenue. Immediately east of this site is existing C-2 commercial development. Staff finds that commercial development should be located at the intersection of collector or arterial streets. Maule Avenue is a collector street and by approving the proposed residential request will make the

existing commercial development less appropriate since it will now be located midway between Grand Canyon Drive and Fort Apache Road.

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 indicates technical studies will be prepared to address any impacts from the proposed residential development; therefore, public infrastructure facilities will not be adversely impacted.

Various Clark County service departments have reviewed this development proposal and found adequate services are available or have specified the type of improvements that are needed for this development. Sufficient public services may not exist in the immediate area and because the site is in the Public Facilities Needs Assessment (PFNA) area, a standard development agreement will be necessary prior to issuance of any building permits to mitigate any short falls in needed public facilities.

Based on information received from the Clark County School District, the middle school and high school located within the corresponding school zone was over capacity for the 2020-2021 school year. Staff is concerned that the cumulative impact from the individual student yield of this project and future projects in the immediate area may further exacerbate the existing capacity situations, especially since this area was not planned to accommodate the number of additional residential units and no new schools are planned in the future.

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

The applicant states that the proposed development satisfies County goals by providing housing alternatives to meet a range of lifestyle choices, ages, and affordability levels.

Although the proposed project may conform to some of the design policies established in the Comprehensive Master Plan, staff finds the request conflicts with Urban Specific Policy 7 which states, land uses that are complementary and are of similar scale and intensity should provide appropriate connectivity and not be segregated. The current proposal would break-up the continuous 10 acres of C-2 zoning at the northeast corner of Grand Canyon Drive and Maule Avenue.

## **Summary**

### **Zone Change**

As stated above staff finds there are no unique or special circumstances that have occurred in the immediate area since the original zone change approval. Staff is concerned with the potential incompatibility between this development and existing land uses immediately adjacent to the site. Approval of this project will allow more dense zoning to intrude into an existing suburban residential area and will not be cohesive or functionally integrated with the adjacent parcels on the east side of this site which is an existing commercial C-2 development.

The issue of establishing an isolated stand-alone attached residential development in the immediate area through a nonconforming zone change and not part of a Comprehensive Land Use Plan update could have adverse impacts to the immediate area. Therefore, staff finds that the applicant has neither demonstrated nor satisfied the criteria for compelling justification to merit approval of the zone change.

#### 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 Comprehensive 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 design of the project is not a typical single family residential development; however, the standards for planned unit developments allow flexibility in design to provide for innovative and unique development options. However, since the overall residential subdivision design cannot function independent of the zone change and design review #1, which staff is not supporting, staff cannot support this portion of the request.

#### Waiver of Development Standards #1 & Design Review #1

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.

There is existing single family residential development on the west and north sides of this site. These homes that abut this site are all 1 or 2 stories in height. Staff is concerned that the proposed 3 story model, would be out of character adjacent to these existing homes. Therefore, based on this concern, and the fact that staff does not support the zone change portion of this request, staff cannot support the overall request.

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

##### Waiver of Development Standards #2

Staff has no objection to the request to reduce the width of the private streets provided that Fire Prevention approves the request. However, since Planning is not supporting the zone change or design of the project, staff cannot support this request.

##### Waiver of Development Standards #3

Staff cannot support the reduction in the street intersection off-set near the entrance on Grand Canyon Drive. The proposed subdivision has a gated entry with a reduced throat depth (waiver #6) that may cause stacking of vehicles in the right-of-way while residents and visitors are trying to access the site.

#### Waiver of Development Standards #4a

Staff cannot support the request to reduce the distance from the residential driveway to the back of curb radius for Lot 1 since drivers entering the site will have limited visibility around the intersection, which may cause accidents.

#### Waiver of Development Standards #4b

Staff has no objection to the request for reduced separation from the driveways to the property lines as this is a typical development pattern with single family attached products. However, since Planning is not supporting the zone change or design of the project, staff cannot support this request.

#### Waiver of Development Standards #5

Staff has no objection to reducing the back of curb radii for the private streets within the proposed subdivision provide that Fire Prevention approves the request. However, since Planning is not supporting the zone change or design of the project, staff cannot support this request.

#### Waiver of Development Standards #6

Staff cannot support the reduction in the throat depth for the entrance on Grand Canyon Drive. Combined with waiver #3, as several vehicles stack at the call box, there will not be enough room to allow others to exit the right-of-way. This may cause safety hazards with vehicles stacking in the Grand Canyon Drive right-of-way.

#### Design Review #2

This design review represents the maximum grade difference along 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 Planning is not supporting the zone change or design of the project, staff cannot support this request.

#### **Staff Recommendation**

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

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

#### **PLANNING COMMISSION ACTION: February 2, 2021 – APPROVED – Vote: Unanimous Current Planning**

- Resolution of Intent to complete in 4 years;
- HOA will maintain all exterior sides of buildings;
- HOA will maintain front yards;
- Install traffic calming devices on north/south streets to prevent/deter speeding in the community;

- 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 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 35 feet to the back of curb for Grand Canyon Drive, 35 feet to the back of curb for Maule Avenue, and associated spandrel;
- Clark County Fire Prevention approval street widths, radii, and driveway locations;
- If required by the Regional Transportation Commission (RTC), grant a bus shelter pad easement in accordance with RTC standards on the east side of Grand Canyon Drive, approximately 100 feet north of Maule Avenue.
- 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.

#### **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.

#### **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 #0293-2020 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:**

**APPROVALS: 2 cards**

**PROTESTS: 22 cards, 59 letters**

**PLANNING COMMISSION ACTION:** January 19, 2021 – HELD – To 02/02/21 – per the applicant.



**COUNTY COMMISSION ACTION:** March 3, 2021 – HELD – To 03/17/21 – per the applicant.

**APPLICANT:** THM ENTERPRISES, INC.

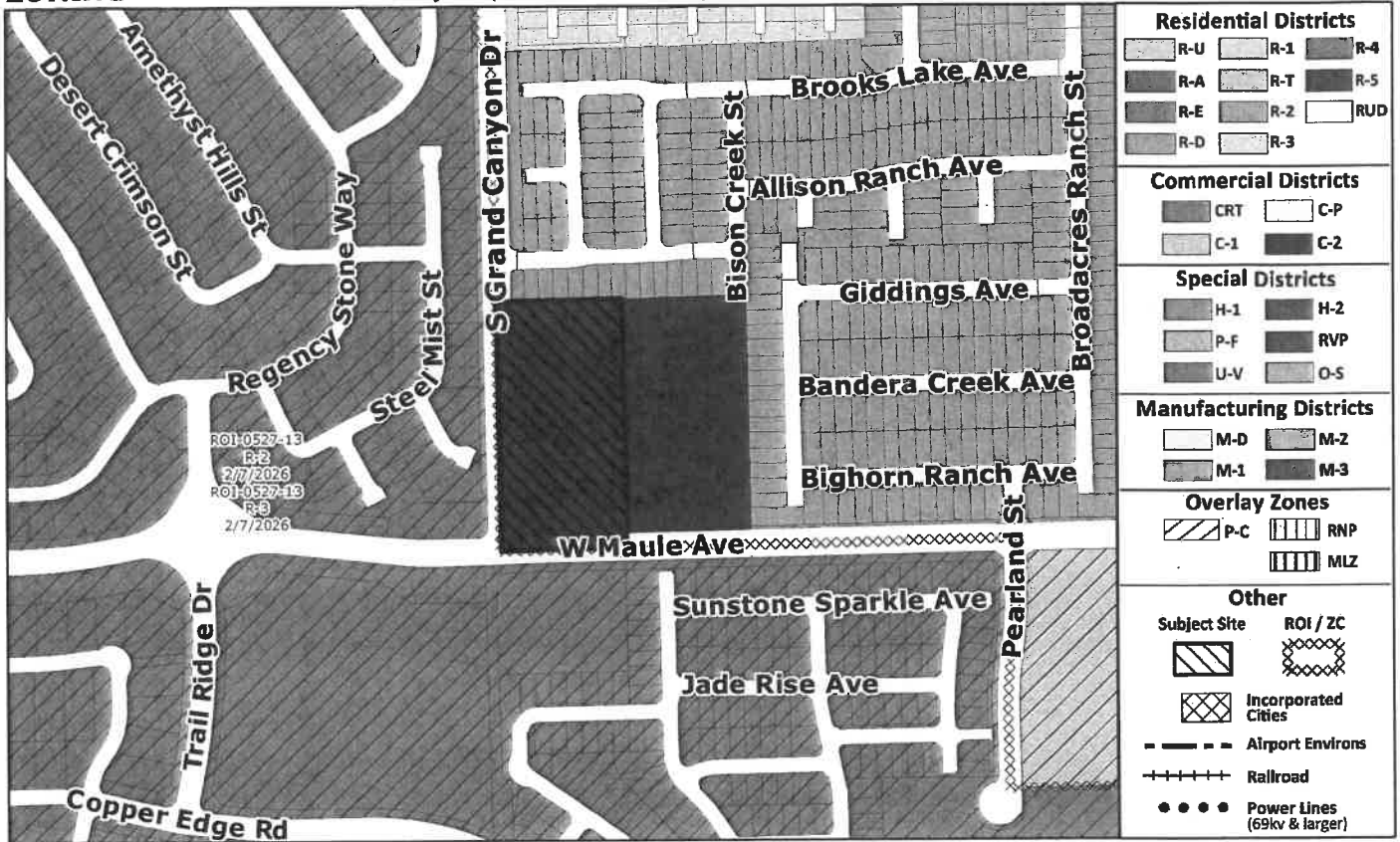
**CONTACT:** ELISHA SCROGUM, TANEY ENGINEERING, 6030 S. JONES BLVD. SUITE 100, LAS VEGAS, NV 89118

# Commission Agenda Map

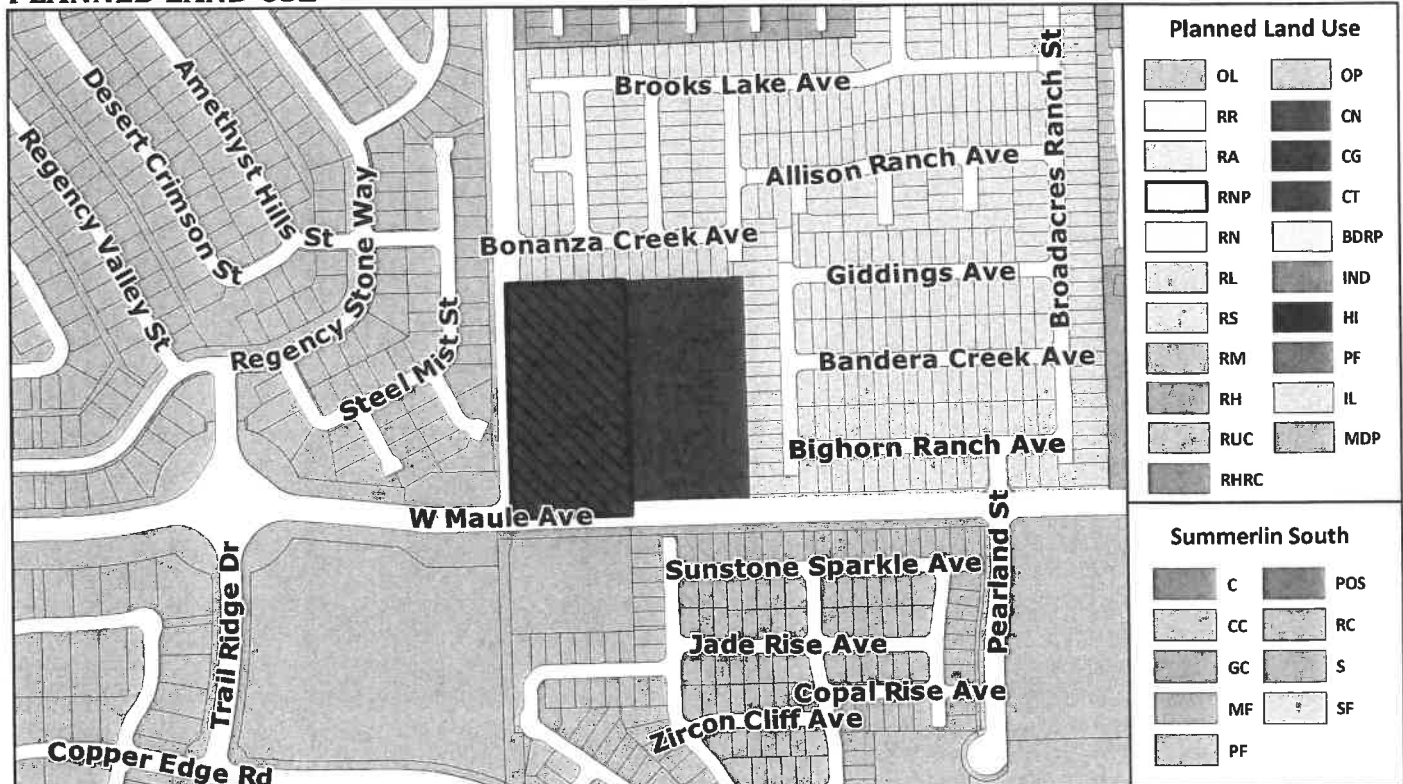
NZC-20-0518

## ZONING

Clark County Department of Comprehensive Planning, Clark County, Nevada



## PLANNED LAND USE



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

Subject Parcel(s)  
17606601007



0 125 250 500 Feet  
Map Created on 11/18/2020





# 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

March 29, 2021

ELISHA SCROGUM  
TANEY ENGINEERING  
6030 S. JONES BLVD, STE 100  
LAS VEGAS, NV 89118

REFERENCE: NZC-20-0518

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 **March 17, 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 4 years;
- HOA will maintain all exterior sides of buildings;
- HOA will maintain front yards;
- Install traffic calming devices on north/south streets to prevent/deter speeding in the community;
- 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 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  
MICHAEL NAFT • JUSTIN C. JONES • TUCK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II  
YOLANDA T. KING, County Manager



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- 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 Grand Canyon Drive, 35 feet to the back of curb for Maule Avenue, and associated spandrel;
- Clark County Fire Prevention approval street widths, radii, and driveway locations;
- If required by the Regional Transportation Commission (RTC), grant a bus shelter pad easement in accordance with RTC standards on the east side of Grand Canyon Drive, approximately 100 feet north of Maule Avenue.
- 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.

#### **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.

#### **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 #0293-2020 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

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020-21-900563

ASSESSOR'S PARCELS - CLARK COUNTY, NV.

Briana Johnson - Assessor

- PARCEL BOUNDARY  
SUB BOUNDARY  
PMLD FASUREMENT  
ROAD EASEMENT  
HATCH / LEADER LINE  
HISTORIC LOT LINE  
HISTORIC SUB BOUNDARY  
SECTION LINE
- CONDOMINIUM UNIT  
AIR SPACE PCL  
100 ACRES  
202 PARCEL SUBRECORD NUMBER  
PB 24-45 PLAT RECORDING NUMBER  
5 BLOCK NUMBER  
GLS GOV. LOT NUMBER

|         |           |   |          |          |
|---------|-----------|---|----------|----------|
| BOOK    | T22S R00E | 6 | S 2 NE 4 | 176-06-6 |
| 500-137 | 138-139   | 5 | 4        | 8        |
| 65-164  | 163-162   | 5 | 1        | 5        |
| 74-175  | 176-177   | 6 | 2        | 6        |
| 94-193  | 192-191   | 7 | 3        | 7        |
|         |           | 8 | 4        | 8        |
|         |           | 5 | 1        | 5        |

Scale: 1" = 200'

Rev 3/18/2021

NOTES

This map is for assessment use only and does NOT represent a survey. No liability is assumed for the accuracy of the data delineated herein. Information on roads and other non-assessed parcels may be obtained from the Road Document Listing in the Assessor's Office.

This map is compiled from official records, including surveys and deeds, but only contains the information required for assessment. See the recorded documents for more detailed legal information.

USE THIS SCALE FEET WHEN MAP IS REDUCED FROM PLAT ORIGINAL

MAP LEGEND

