

01/18/23 BCC AGENDA SHEET

SINGLE FAMILY RESIDENTIAL
(TITLE 30)

LEVI AVE/HAVEN ST

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

NZC-22-0607-AVILA, JOSE:

ZONE CHANGE to reclassify 0.9 acres from an R-E (Rural Estates Residential) (RNP-I) Zone to an R-D (Suburban Estates Residential) Zone.

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** landscaping; and **2)** off-site improvements (curbs, gutters, streetlights, sidewalks, and partial paving).

DESIGN REVIEW for a single family residential development.

Generally located on southwest corner of Levi Avenue and Haven Street within Enterprise (description on file). MN/al/syp (For possible action)

RELATED INFORMATION:

APN:

177-33-201-004

WAIVERS OF DEVELOPMENT STANDARDS:

1. Waive requirements for landscaping where landscaping with a detached sidewalk is required per Figure 30.64-17.
2. Waive requirement for off-site improvements (curbs, gutters, streetlights, sidewalks, and partial paving) where required per Section 30.52.050.

LAND USE PLAN:

ENTERPRISE - RANCH ESTATE NEIGHBORHOOD (UP TO 2 DU/AC)

BACKGROUND:

Project Description

General Summary

- Site Address: N/A
- Site Acreage: 0.9
- Number of Lots: 2
- Density (du/ac): 2.2
- Lot Size (square feet): 20,908 (each lot)
- Project Type: Single family residential development
- Number of Stories: 1 & 2
- Building Height (feet): 29
- Square Feet: 4,307 & 8,347

Neighborhood Meeting Summary

This request is for a nonconforming zone change to reclassify approximately 0.96 acres from an R-E (RNP-I) zone to an R-D zone for a single family residential development. The applicant conducted a neighborhood meeting at the Enterprise Library on April 20, 2022, as required by the nonconforming zone boundary amendment process. The required meeting notices were mailed to the neighboring property owners within 1,500 feet of the project site and 2 neighbors attended the meeting. One of the neighbors requested the future homes be limited to 1 story. No other concerns were raised at the meeting.

Site Plan

The applicant is proposing to subdivide the parcel into 2 lots for the construction of 2 custom homes. The site has frontage along Levi Avenue and Haven Street, which are currently improved to rural street standards and the applicant is requesting a waiver of development standards to keep the streets at the rural street standards. Each lot will have an area of 20,908 square feet and will take access from Levi Avenue.

Landscaping

The plans are not depicting landscaping and the applicant has submitted a waiver of development standards to waive the required landscaping and detached sidewalks along the streets.

Elevations

The plans depict 2 homes with a 1 story and a 2 story model. Each home has a flat roof with the exterior consisting of stucco finish painted in earth tone colors and stone veneer. The 1 story home will have a height of approximately 22 feet and the 2 story approximately 29 feet.

Floor Plan

The 1 story home has an area of 4,307 square feet with a 2 car garage and a separate RV garage. This home has 3 bedrooms with a den that can also be used as a bedroom. The 2 story home has an area of 8,347 square feet with a 3 car garage and a separate RV garage. This home has 6 bedrooms.

Applicant's Justification

The applicant states that MSM-20-600096 had been submitted to subdivide the parcel into 2 lots. MSM-20-600096 expired while waiting for drainage study approval. Since MSM-20-600096 was originally submitted, changes were made to Title 30 for the requirements for gross acreage. Any right-of-way that has been dedicated to the County can no longer be counted toward the area of the site. Therefore, the site is no longer large enough in area to allow the subdivision of the parcel into 2 lots and meet the density of the R-E zoning district. The parcel must be reclassified to an R-D zoning district to allow the parcel to be subdivided into 2 parcels. The proposed lots will comply with the minimum lot size requirements of the R-E zone and the homes will comply with the required setbacks for the R-E zone. However, the density of the development exceeds the maximum density allowed for the R-E zoning district and the RNP-I Overlay District.

Prior Land Use Requests

Application Number	Request	Action	Date
DR-21-0652	Increased finished grade for a proposed single family development	Approved by BCC	January 2022
MSM-20-600096	Minor subdivision map for a 2 lot single family residential development - expired	Reviewed by PW	December 2020
ZC-1026-05	Established an RNP-I Overlay District for portions of the Enterprise Planning area	Approved by BCC	October 2005

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North, South, East, & West	Ranch Estate Neighborhood (up to 2 du/ac)	R-E (RNP-I)	Single family residential

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

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.*

MSM-20-600096 was submitted and reviewed by the Public Works Mapping Team in December 2020 to subdivide the parcel into 2 lots. At that time the Code allowed the area of previously dedicated streets to be counted toward the lot area for determining the density of a project. MSM-20-600096 expired and the Code has been changed to no longer allow the area of previously dedicated streets to be counted toward the density of a development. With this change the existing parcel does not have enough area to comply with the density requirement of 2 du/ac for the R-E zoning district and in order to subdivide the parcel the site must be reclassified to a zoning district that will allow for the proposed density of 2.2 du/ac. The change in the requirements for acreage and density is a change in the law. However, staff finds there were other options open to the applicant besides requesting a nonconforming zone change. The applicant could have filed a request for an extension of time for MSM-20-600096 which would have kept the application active, and the lot area would have been allowed under the prior rules with the active map application. Another option could be to request the vacation and abandonment of portions of the dedicated streets adjacent to the site for detached sidewalks

which would increase the lot area which would in turn lower the density of the site and maintain the integrity of the RNP-I Overlay District. Therefore, staff finds that there has not been a change in law, policies, trends, or facts which makes the proposed nonconforming zone change 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 surrounding area is zoned R-E (RNP-I), the proposed lots exceed the minimum area of the R-E zoning district, and the homes will comply with the required setbacks for the R-E zone. However, the surrounding area is zoned R-E and is located in an RNP-I Overlay District. The R-E zone and RNP-I Overlay District allow a maximum density of 2 du/ac and the proposed development has a density of 2.2 du/ac, which is not compatible with the surrounding development. The other lots abutting this site are developed. The proposed lots are each 0.48 acres in area and will take access from Levi Avenue. The other lots in this area that take access from Levi Avenue and Haven Street are between 0.52 acres to 3.35 acres in area. The proposed lots would be smaller than other lots accessing Levi Avenue and Haven Street in this area and would not be consistent with the existing development in this area. Therefore, staff finds the proposed development is not compatible with existing developments in this area.

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

There has been no indication from public facility and services providers that the proposed development would have a substantial adverse effect on public facilities and services.

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

The proposed request complies with Goal 1.1 of the Master Plan to provide opportunities for diverse housing options to meet the needs of residents of all ages, income levels, and abilities. The proposed development also complies in part with Policy 1.1.1 to encourage the provision of diverse housing types at varied densities and in numerous locations. However, allowing a density of more than 2 du/ac the proposed development does not comply with Goal 1.5 of the Master Plan to maintain opportunities for Ranch Estate lifestyles in the Las Vegas Valley. By increasing density to over 2 du/ac the proposed development does not comply with Policy 1.5.1 of the Master Plan to support the protection of existing Rural Neighborhood Preservation (RNP) areas as defined by NRS Section 278. This site is located in an RNP-I Overlay District which sets a maximum density of 2 du/ac to protect the large lot R-E developments within the rural portions of the Las Vegas Valley. Removing this site from the RNP-I Overlay District would not comply in part with Policy 1.5.2 of the Master Plan to adopt and implement standards to protect the established character and lifestyles associated with RNP areas. Therefore, staff finds the proposed development is in conflict with goals and policies within the Master Plan that are intended to protect the RNP-I areas.

Summary

Zone Change

Staff finds that there has not been a change in law, policies, trends, or facts which makes the proposed nonconforming zone change appropriate. The proposed development is not compatible with existing developments in this area. Although there has been no indication that the proposed development will have a substantial adverse effect on public facilities and services, the proposed development does not conform to other applicable adopted plans, goals, and policies. Therefore, staff finds that the applicant has not provided a Compelling Justification which makes this zone boundary amendment appropriate.

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

All of the parcels abutting this site are developed and none of these parcels have provided landscaping with detached sidewalks are required by Figure 30.64-17. The proposed street scape proposed by the applicant is consistent and compatible with the existing development in this area. However, staff does not support the zone change request and cannot support this waiver of development standards.

Design Review

The proposed lots exceed the minimum standards for an R-E zoning district and the proposed homes will meet the required setbacks for the R-E zoning district. Based on these standards the proposed homes would blend in with the adjacent developments. However, the site has to be reclassified to an R-D zone to allow for the proposed density of the development and staff does not support this zone change. Therefore, staff cannot support the design review for the proposed development.

Public Works - Development Review

Waiver of Development Standards #2

Historical events have demonstrated how important off-site improvements are for drainage control. Additionally, full width paving allows for better traffic flow and sidewalks on public streets provide safer pathways for pedestrians and for children to walk to school. Therefore, staff cannot support the waiver of development standards for full off-site improvements.

Department of Aviation

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

Staff Recommendation

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

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

**PLANNING COMMISSION ACTION: January 3, 2023 – APPROVED – Vote: Unanimous
Current Planning**

- Resolution of Intent to complete in 3 years;
- Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area.
- Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a new application for a Master Plan area plan amendment and a zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Public Works - Development Review

- Comply with approved drainage study PW21-15006;
- Right-of-way dedication to include the spandrel in the northeast corner of the site;
- Execute a Restrictive Covenant Agreement (deed restrictions).

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 homes purchased or soundproofed.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that a Point of Connection (POC) request has been initiated for this project; to email sewerlocation@cleanwaterteam.com and reference POC Tracking #0145-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

TAB/CAC: Enterprise - approval.

APPROVALS:

PROTESTS: 7 cards

PLANNING COMMISSION ACTION: December 20, 2022 – HELD – To 01/03/23 – per the applicant.

APPLICANT: JOSE AVILA

CONTACT: BAUGHMAN & TURNER, INC., 1210 HINSON STREET, LAS VEGAS, NV 89102