

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

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**Petitioner:** Sami Real, Director, Department of Comprehensive Planning

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**Recommendation:** ORD-25-900977: Introduce an ordinance to consider adoption of a Development Agreement with Picerne Bermuda LLC for a multi-family residential development on 12.2 acres, generally located south of Neal Avenue and west of Bermuda Road within Enterprise. MN/dw (For possible action)

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**FISCAL IMPACT:**

None by this action.

**BACKGROUND:**

The Board of County Commissioners (Board) approved a land use application NZC-21-0128 for a multi-family residential development on 12.2 acres, generally located south of Neal Avenue and west of Bermuda Road within Enterprise. Conditions of approval included the developer and/or owner entering into a Development Agreement prior to any permits being issued in order to provide their fair-share contribution towards public infrastructure necessary to provide service in the southwest portion of the Las Vegas Valley.

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

Staff recommends the Board set a public hearing for January 21, 2026.

**Cleared For Agenda**  
01/07/26

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

SUMMARY - An ordinance to adopt the Development Agreement with Picerne Bermuda LLC for a multi-family residential development on 12.2 acres, generally located south of Neal Avenue and west of Bermuda Road within Enterprise.

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

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH PICERNE BERMUDA LLC FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT ON 12.2 ACRES, GENERALLY LOCATED SOUTH OF NEAL AVENUE AND WEST OF BERMUDA ROAD WITHIN ENTERPRISE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with the provisions of Section 278.0203 of the Nevada Revised Statutes and Chapter 30.06 of the Clark County Code, the Development Agreement with Picerne Bermuda LLC for a multi-family residential development on 12.2 acres, generally located south of Neal Avenue and west of Bermuda Road within Enterprise, is hereby adopted.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks and shall be effective on and from the fifteenth day after passage.

PROPOSED on the \_\_\_\_\_ day of \_\_\_\_\_, 2025

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

PASSED on the \_\_\_\_\_ day of \_\_\_\_\_, 2025

VOTE:

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

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

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

ABSTAINING:

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

ABSENT:

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

BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

By: \_\_\_\_\_  
TICK SEGERBLOM, Chair

ATTEST:

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

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day  
of \_\_\_\_\_ 2025.

APN(s): **191-04-602-012, -014, -017**  
Please Return to: Sami Real  
Comprehensive Planning Department  
1<sup>st</sup> Floor, Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, Nevada 89155

**DEVELOPMENT AGREEMENT**

**BETWEEN**

**THE COUNTY OF CLARK**

**AND**

**PICERNE BERMUDA LLC**

**FOR**

**BERMUDA & NEAL**

**ORD-25-900977**

## 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 **PICERNE BERMUDA LLC** the Owner of the real property described on Exhibit "A" attached hereto (hereinafter referred to as the "Owner") and incorporated herein by reference.

### SECTION 1 – DEFINITIONS

1.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "Agreement" has the meaning assigned to it in the first paragraph hereof. Agreement at any given time includes all addenda and exhibits incorporated by reference and all amendments, which have become effective as of such time.
- (b) "Applicable Rules" means the specific code, ordinances, rules, regulations and official policies of the County as adopted and in force at the time of permit issuance or map recordation and as amended from time to time, regarding planning, zoning, subdivisions, timing and phasing of development, permitted uses of the Subject Property, density, design, and improvement standards and specifications applicable to the Project, including the Public Facilities Needs Assessment Report, and the fees incorporated herein, except that:
  - (1) The fees required in the County Code specifically for the Major Projects shall *not* apply to the Project, unless and until the parties agree that the development of the Project will be processed as a Major Project;  
and
  - (2) The zoning established by the Concurrent Approvals will not be amended or modified during the term of this Agreement without Owner's prior written approval.
- (c) "Best Efforts" means, in the case of any contingent obligation of County or Owner, that the party so obligated will make a good faith effort to accomplish the stated goal, task, project or promised performance, provided such term does not imply a legal obligation to take any specific action if:
  - (i) In the case of a County obligation, such action would, in the reasoned opinion of the County Commission, be imprudent given competing public needs and projects; or
  - (ii) In the case of an Owner obligation, such action would, in the reasoned opinion of the Owner, be commercially unreasonable.

In either case, upon request, the responsible party shall give written notice to the other party that it has considered such contingent obligation and the reason for its decision not to perform.

- (d) "Builder" means any person or entity, which constructs final improvements (other than off-site improvements or infrastructure) with respect to a subdivision or parcel of the Subject Property.
- (e) "Code" means the Clark County Code, including all rules, regulations, standards, criteria, manuals and other references adopted herein.
- (f) "Concurrent Approvals" means the zoning, land use or map approvals and authorizations, relating to the Subject Property, together with the applicable conditions, as granted by the County Commission, including without limitation those approvals and conditions of

approval per **NZC-21-0128**, the Agenda Sheet, Notice of Final Action and agenda map attached hereto as Exhibit "C" and incorporated herein by this reference.

- (g) "County" means the County of Clark, State of Nevada together with its successors and assigns.
- (h) "County Commission" means the Board of County Commissioners or Planning Commission of the County of Clark, State of Nevada.
- (i) "County Master Plan" means the comprehensive plan adopted by the County Commission in 1983 and all amendments thereto including, but not limited to, all adopted land use, development guides and elements, including the land use and development guide and the general plan map for unincorporated portions of the Las Vegas Valley adopted by the County Commission on January 24, 1974, except as amended by the adoption of more recent plans in effect as of the Effective Date.
- (j) "Development Agreement Ordinance" means an ordinance adopted per Chapter 30.06 of the Clark County Unified Development Code (Title 30) along with any other Chapters of the Clark County Code that are relevant to the Development Agreement being considered.
- (k) "Effective Date" means the date, on or after the adoption by the County Commission, of an ordinance approving execution of this Agreement whereas the Agreement has been executed and signed by both parties, that this Agreement is recorded in the Office of the County Recorder of Clark County, Nevada.
- (l) "NDOT" means Nevada Department of Transportation.
- (m) "NRS" means Nevada Revised Statutes.
- (n) "PFNA" means the Southwest Las Vegas Valley Public Facilities Needs Assessment Report, dated December 1, 2000, incorporated herein by this reference and approved by the County Commission on January 2, 2001.
- (o) "Project" means the Subject Property and the proposed development of the Subject Property described in this Agreement.
- (p) "Subject Property" means that certain real property, which Owner owns or has the right to acquire, located in the County and more particularly described on Exhibit "A".
- (q) "Term" means the term of this Agreement together with any extension agreed upon pursuant to Section 7.02 hereof.

## **SECTION 2 – RECITAL OF PREMISES, PURPOSE AND INTENT**

2.01 Recitals. This Agreement is predicated upon the following facts and findings:

- (a) Statutory Authorization. The County is authorized, pursuant to NRS §278.0201 through 278.0207, inclusive, to enter into binding Development Agreements with persons having a legal or equitable interest in real property to establish long range plans for the development of such property.
- (b) Ownership Interest. Owner represents that it has, will acquire, or has the right to acquire, fee title ownership of the Subject Property.
- (c) County Authorization, Hearing and Ordinance. All preliminary processing with regard to the Project has been duly completed in conformance with all applicable laws, rules and regulations. The County Commission, having given notice as required by law, held a public hearing on Owner's application seeking approval of the form of this Agreement and the execution hereof by the County. At the described meeting, the County Commission found that this Agreement is consistent with the County's plans, policies and regulations, including the County Master Plan, that the Agreement meets the requirements of Title 30 of the Code, and that the execution hereof by and on behalf of the County is in the public interest and is lawful in all respects. During the same meeting at which the public hearing was held, the County Commission adopted the Ordinance approving this Agreement and authorizing the execution hereof by duly constituted officers of the County. Said ordinance was scheduled to be effective two weeks after adoption. County agrees to record a certified copy of the ordinance as required by NRS §278.0207.
- (d) County Intent. The County desires to enter into this Agreement in conformity with the requirements of NRS, and as otherwise permitted by law, and this Agreement to provide for public services; public uses and urban infrastructure; to promote the health, safety and general welfare of the County and its inhabitants; to minimize uncertainty in planning for and securing orderly development of the Project and surrounding areas; to insure attainment of the maximum efficient utilization of resources within the County at the least economic cost to its citizens; and to otherwise achieve the goals and purposes for which the State statute and County ordinance authorizing Development Agreements were enacted.
- (e) Owner Intent. In accordance with the legislative intent evidenced by NRS §278.0201 through §278.0207, inclusive, authorizing Development Agreements and the intent of the County in adopting an ordinance allowing Development Agreements, Owner wishes to obtain reasonable assurances that Owner may develop the Project in accordance with the conditions established in this Agreement. Owner acknowledges that there are insufficient public services, which includes facilities and infrastructure, existing or planned at this time. In order to develop the Subject Property, Owner is willing to enter into this Development Agreement in order to pay Owner's fair share of the costs to provide certain public services, facilities, and infrastructure in the area of this Project. Owner further acknowledges that this Agreement was made a part of the County Record at the time of its approval by the County Commission and that the Owner agrees without protest to the requirements, limitations, or conditions imposed by this Agreement and the Concurrent Approvals.
- (f) Acknowledgment of Uncertainties. The parties acknowledge that circumstances beyond the control of either party could defeat their mutual intent that the Project be developed in the manner contemplated by this Agreement. Among such circumstances is the unavailability of

water or other limited natural resources, federal regulation of air and water quality, and similar conditions. Owner recognizes that water shortages could affect the County's ability to perform its obligations hereunder. Owner further acknowledges and agrees this Agreement does not relieve the Owner from compliance with existing, changed, modified or amended rules regulations, laws, ordinances, resolutions, fees codes, etc., of other governmental agencies. Such rules, regulations, laws, ordinances, resolutions, fees, codes, etc. of governmental entities must be complied with by the Owner and are not locked in nor a part of this Agreement. It is not the intent of the parties nor shall this Section be construed as excusing the County of any obligation hereunder or depriving Owner of any right under this Agreement, which can be performed.

- (g) Provision of Water and Sewer Service. Owner clearly understands and agrees that, amongst other requirements, water commitment and sanitary sewer system development approval must be obtained from the proper governmental entities namely the Las Vegas Valley Water District and the Clark County Water Reclamation District. Fees and services for such commitments and systems are established by said governmental entities and must be paid and complied with by the Owner in accordance with said governmental entities requirements as amended from time to time. This Agreement or the County does not guarantee or provide the provision of water and sewer services.

- 2.02 Incorporation of Recitals. The foregoing recitals shall be deemed true and correct in all respects with respect to this Agreement and shall serve as the basis for the interpretation of this Agreement.
- 2.03 Permitted Uses, Density, Height and Size of Structures. Pursuant to NRS §278.0201 and the Code, this Agreement must set forth the maximum height and size of structures to be constructed on the Subject Property, the density of uses and the permitted uses of the land. County agrees the Project may be developed to the density and with the land uses set forth in the Land Use and Development Guide/Plan, along with the development standards set forth in the Concurrent Approvals and the Applicable Rules.

### **SECTION 3 – DEVELOPMENT OF THE PROJECT**

- 3.01 Time for Construction and Completion of the Project. Subject to the terms of this Agreement and Applicable Rules, Owner shall have discretion as to the time of commencement, construction, phasing, and completion of any and all development of the Project. Nothing herein shall be construed to require the Owner to develop the Project or any part thereof.
- 3.02 Reliance on Concurrent Approvals and Applicable Rules. County hereby agrees that Owner will be permitted to carry out and complete the entire Project in accordance with the uses and densities set forth in the Concurrent Approvals subject to the terms and conditions of this Agreement and the Applicable Rules. Pursuant to the terms of this Agreement and subject to Owner's infrastructure obligations described in this Agreement, the development of the Project may proceed.
- 3.03 Air Quality Conformity. Owner acknowledges County has adopted an air quality plan and agrees to comply with the applicable provisions thereof, including any state and federal rules and regulations.
- 3.04 Dust Mitigation. Owner will educate Builders and contractors within the Project of the applicable rules of the Clark County Department of Air Quality & Environmental Management with respect to dust mitigation and will encourage compliance therewith.
- 3.05 Water Conservation. Owner agrees to encourage water conservation in the Project. Owner agrees to design any open space using the best available, water conserving techniques, including but not



limited to proper soil preparation and water conserving irrigation systems and equipment. Landscaping adjacent to public streets shall be limited to water conserving plant materials.

- 3.06 Temporary Storm Water Construction Permit. Owner agrees to educate Builders and contractors within the Project on the requirements for a Temporary Storm Water Construction Permit issued from the Nevada Division of Environmental Protection (NDEP).

## **SECTION 4 – PUBLIC FACILITIES**

- 4.01 Public Facilities. Owner agrees that prior to issuance of any building permit for a single family dwelling, multiple family dwelling, retail, office, industrial or hotel use in the Project, they will pay the fees as set forth in the Public Facilities Chart below, hereinafter referred to as Chart 4.01-A, except as modified by this Section 4.01.

In addition, the fees set forth in Chart 4.01-A below may be increased or decreased from time to time during the term of this Agreement if the modified fees are uniformly applied to all development and construction within the Public Facilities Needs Assessment area. The County and Owner agree that any fee modifications shall be applied only for building permits not yet issued. Owner and the County will not be entitled to any payment or reimbursements for fees paid for building permits issued prior to any such fee modification.

<b>CHART 4.01-A PUBLIC FACILITIES CHART</b>			
<b>Type Of Development</b>	<b>Infrastructure Category</b>		<b>Total Per Unit</b>
	<b>Parks</b>	<b>Public Safety</b>	
<b>Single Family Dwelling Unit</b> (per dwelling unit)	<b>\$ 627.59</b>	<b>\$ 1,060.80</b>	<b>\$ 1,688.39</b>
<b>Multi Family Dwelling Unit</b> (per dwelling unit)	<b>\$ 627.59</b>	<b>\$ 1,040.11</b>	<b>\$ 1,667.70</b>
<b>Retail</b> (per square foot gross floor area)	<b>N/A</b>	<b>\$ 0.71</b>	<b>\$ 0.71</b>
<b>Office</b> (per square foot gross floor area)	<b>N/A</b>	<b>\$ 0.79</b>	<b>\$ 0.79</b>
<b>Industrial</b> (per square foot gross floor area)	<b>N/A</b>	<b>\$ 0.47</b>	<b>\$ 0.47</b>
<b>Hotel</b> (per room)	<b>N/A</b>	<b>\$ 1,062.52</b>	<b>\$ 1,062.52</b>

- 4.02 Parks. In addition to the fees in Chart 4.01-A above, Owner agrees that this development is subject to the Residential Construction Tax if required by Chapter 19.05 of the Clark County Code.

- 4.03 Traffic Study. Owner shall prepare and submit to the County (and NDOT if applicable) a Traffic Study (if required) acceptable to the County (and NDOT if applicable) for the Subject Property prior to submittal of any final map for technical review, or prior to County issuance if any grading or building permits; whichever occurs first, and Owner agrees to comply with said Study as approved by the County. Any modification to the Traffic Study must be approved by the Director of the Department of Public Works.

In addition to the fees in Chart 4.01-A above, Owner agrees to construct at its sole cost and expense and dedicate to the County (or NDOT if applicable) any such roadway and traffic improvements identified in the Traffic Study as approved with conditions by the County (and NDOT if applicable), which are necessary for the Subject Property or for the mitigation of any traffic impacts caused by the development of the Subject Property.

Each facility must be built in the manner prescribed by the Code, NRS, and in accordance with the, “Uniform Standard Drawings for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada”, as amended by the Concurrent Approvals as approved by the County, and the State’s Design Manual prior to issuance of any building permits for the area impacted by the facilities, as identified in the Traffic Study as approved with conditions by the County (an NDOT if applicable).

Nothing herein shall be construed to require Owner to construct the applicable traffic improvements if Owner does not develop the impacted area. Owner acknowledges it shall be responsible for all public and private roadway construction (if applicable), utility installations and modifications, lighting, traffic control equipment and signage, and aesthetic improvements relating to the development.

- 4.04 Drainage Study. Owner shall prepare and submit to the County a Drainage Study, if required by the Clark County Department of Public Works, acceptable to the County for the Subject Property prior to recording any final map or the issuance of any grading and/or building permits. In addition to the fees in Chart 4.01-A above, Owner agrees to construct at its sole cost and expense and dedicate to the County such flood and drainage facilities identified in the Drainage Study which are necessary for the flood protection of the Subject Property or for the mitigation of any downstream flood impacts caused by the development of the Subject Property.

Each facility must be built, in the manner prescribed by Code, prior to issuance of any grading and/or building permits for the area impacted by the facilities as identified in the approved Drainage Study in accordance with Code. Notwithstanding any other provision in this section no grading or building permit shall be issued in any area not protected by the drainage facilities identified in the approved Drainage Study.

## **SECTION 5 – REVIEW AND DEFAULT**

- 5.01 Frequency of Reviews. As required by NRS §278.0205 and the Development Agreement Ordinance, at least once every twenty-four (24) months during the Term of this Agreement, Owner shall provide and County shall review in good faith a report submitted by Owner documenting the extent of Owner's and County's material compliance with the terms of this Agreement during the preceding twenty-four (24) months. If at the time of review an issue not previously identified in writing is required to be addressed, the review, at the request of either party, shall be continued to afford sufficient time for response.

- 5.02 Opportunity to be Heard. County and Owner shall be permitted an opportunity to be heard orally and in writing before the County Commission regarding their performance under this Agreement in the manner set forth in Development Agreement Ordinance.

- 5.03 Procedures in the Event of Noncompliance. In the event of any noncompliance with any provision of this Agreement, the party alleging such noncompliance shall deliver to the other in writing a courtesy notice, not less than thirty (30) calendar days prior to declaring a default under this Agreement. The time of notice shall be measured from the date of post mark which may be sent by regular mail.

The courtesy notice shall state the reason for noncompliance, any action necessary to correct the noncompliance, specify the nature of the alleged default and, where appropriate, the manner and period of time in which the noncompliance may be satisfactorily corrected. During the period of time the default letter is pending, the party alleged to be in default shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is corrected, then no default shall exist and the noticing party shall take no further action. If the default is not corrected within thirty (30) calendar days, the following courses of action shall apply:

- (a) County Procedures

- (i) Intent to Remedy Noncompliance. After proper notice and the expiration of the above-referenced periods for correcting the alleged default, the Director of

Development Services, or his or her designee, may do one or both of the following options:

- (1) Immediately direct County staff to recommend that all future zoning, land use, and mapping applications within the Project be conditioned so that the building permits to be issued as a result of those approvals shall not be issued until the default is corrected, or;
  - (2) Issue a letter providing notice of County's intent to set the matter for hearing before the County Commission. The letter shall notify Owner of the action taken. In the event the County selects this option, County shall give Owner at least seven (7) business days notice to correct the default before the matter is scheduled for a hearing. The letter notifying Owner of the hearing shall contain the intended hearing date. The seven (7) business days will be measured from the date of the certified mailing of the notice.
    - (ii) Hearing Schedule. If the default is not corrected within the time specified above, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission on the next available Commission zoning agenda.
    - (iii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by Owner and the default remains uncorrected, the County Commission may authorize the suspension of building permits within the Project or may amend or terminate this Agreement. Termination shall not in any manner rescind, modify, or terminate any Vested Right in favor of Owner, existing or received, as of the date of the termination. Owner shall have twenty-five (25) calendar days after the date of notice of the County Commission's decision is filed with the Clark County Clerk, Commission Division, to institute legal action pursuant to Sections 5.05 and 5.06 hereof, to determine whether the County Commission abused its discretion in determining whether a default existed and remained uncorrected.
- (b) Owner Procedures
- (i) After proper notice and the expiration of the above-referenced periods for correcting the alleged default, Owner may issue a letter requesting a hearing before the County Commission for review of the alleged default. Upon receipt of the letter, County shall schedule an item to consider the alleged default on the next available Commission zoning agenda.
  - (ii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by County and remains uncorrected, the County Commission shall direct County staff to correct the default. Owner shall have twenty-five (25) calendar days after the date of notice of the County Commission's decision is filed with the Clark County Clerk, Commission Division, to institute legal action pursuant to this Section hereof to determine whether the County Commission abused its discretion in determining whether a default existed and remained uncorrected.
- (c) Waiver. Failure or delay in giving any notice provided for herein shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceeding which it may deem necessary to protect, assert, or enforce any of its right or remedies.

(d) Notices. All notices provided for herein shall be sent to and in the manner provided in Section 7.08 of this Agreement.

5.04 Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged default, the party alleging the default shall give notice of intent to amend or terminate this Agreement pursuant to NRS §278.0205 (the "Notice of Intent"), with notices sent in the manner provided by Section 7.08 of this Agreement. Following any such Notice of Intent, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission.

5.05 Unavoidable Delay or Default, Extension of Time for Performance. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, acts of terrorism, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by governmental entities, failure of governmental agencies (other than County) to perform acts or deeds necessary for the performance of this Agreement, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations, litigation, or similar matters beyond the control of the parties. If written notice of any such delay is given to County within thirty (30) calendar days after the commencement thereof, an automatic extension of time, unless otherwise objected to by County within ten (10) business days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between County and Owner.

5.06 Institution of Legal Action. The County and Owner agree that the County would not have entered into this Agreement if it were liable for damages under or with respect to this Agreement. Accordingly, the County and the Owner may pursue any remedy at law or equity available for breach, except that neither the Owner nor the County shall be liable to the other or to any other person or entity for any monetary damages whatsoever. Prior to the institution of any legal action, the party seeking legal action must give the thirty (30) day notice of default as set forth in Section 5.03. Following such notice, a public hearing must be held by the County Commission where the allegations will be considered and a decision regarding their merits will be reached. Any judicial review of the County Commission's decision or any legal action taken pursuant to this Agreement will be heard by a Court under the standard review appropriate to Court review of zoning actions, and the decision of the County Commission shall be overturned or overruled if its decision is clearly arbitrary and capricious. Judicial review of the decision of the County Commission shall be limited to the evidence presented to the County Commission at the public hearing. If a party desires to present new or additional evidence to the Court, such party may petition the Court to remand the matter to the County Commission to consider the additional or new evidence. Jurisdiction for judicial review or any judicial action under this Agreement shall rest exclusively with the Eighth Judicial District Court, State of Nevada.

5.07 Applicable Laws. This Agreement shall be construed and enforced in accordance with the law of the State of Nevada.

## **SECTION 6 – CONFLICTING LAWS**

6.01 Conflicting State or Federal Rules. In the event that any conflicting state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the County,

this Agreement shall remain in full force and effect as to those provisions not affected, and the conflicting laws or regulations shall not be applied retroactively, and:

- (a) Notice and Copies. Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy or an account of any such action or inaction together with a statement of how any such matter conflicts with the provisions of this Agreement; and
- (b) Modification Conferences. The parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation, or accommodate any such action or inaction.

- 6.02 County Commission Hearings. In the event the County believes that an amendment to this Agreement is necessary pursuant to this Section 6 due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the County Commission. The County Commission shall determine the exact nature of the amendment or suspension necessitated by such federal or state law or regulation or action or inaction. Owner shall have the right to offer oral and written testimony at the hearing. Any suspension or modification ordered by the County Commission pursuant to such hearing is subject to judicial review as set forth in Section 5.06. The parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.
- 6.03 Cooperation in Securing Permits. The County shall use its Best Efforts to cooperate with Owner in securing any County permits, licenses or other authorizations which may be required as a result of any amendment or suspension resulting from actions initiated under this Section 6. Owner will be responsible to pay all applicable fees in connection with securing of the permits.

## **SECTION 7 – GENERAL PROVISIONS**

- 7.01 Enforcement and Binding Effect. Subject to the limitations of NRS §278, this Agreement is enforceable by either party in accordance with its terms notwithstanding any change (which, except for this Agreement, would otherwise be applicable) in any of the Applicable Rules. Nothing in this Agreement shall prevent the County from increasing "cost based fees" which are deemed to be administrative fees for issuance of land use approvals, building permits, plan checks, or inspections which are based upon actual costs to the County and which are uniformly applied to all development and construction subject to the County's jurisdiction. "Cost based fees" do not include the fees addressed in Section 4.01 of this Agreement.
- 7.02 Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the date the land use application expires or upon the eighth (8th) anniversary of the Effective Date, or when all obligations hereunder are satisfied, whichever occurs earliest, unless extended by written agreement executed by County and Owner.
- 7.03 Assignment.
  - (a) Transfer Not to Relieve Owner of its Obligation. Except as expressly provided herein, no assignee or transferee of any portion of the Project within the area covered by a recorded subdivision map shall be subject to the obligations of Owner as to the portion of the Project so assigned or transferred nor be deemed to have assumed all such obligations, and such assignment or transfer shall not relieve Owner of its obligation as to the assigned or transferred portion of the Project.

- (b) Transfer to an Affiliate of Owner. The rights of Owner under this Agreement may be freely transferred or assigned to any entity, partnership, or corporation, which Owner controls, or in which Owner has a controlling interest, or which controls Owner; provided, such entity shall assume in writing all obligations of Owner hereunder.
- (c) Third Party Assignment. The rights and obligations of Owner under this Agreement may be freely transferred or assigned to a third party not affiliated with Owner, provided such third party assumes in writing all obligations of Owner hereunder as to the assigned or transferred portion of the Project along with a copy of the sale, transfer, conveyance, or assignment agreement wherein the third party assumes the obligations of the Owner. Upon any such assignment hereunder, the Owner shall be relieved of all obligations and liabilities under or in connection with this agreement. In connection with the conveyance of any portion of the property, Owner shall provide County with written notice of any sale, transfer, conveyance or assignment of any unimproved portion of the Project.
- (d) Financial Transactions. Owner has full discretion and authority to transfer, assign or encumber the Project or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transaction at any time and from time to time without permission of or notice to County.

7.04 Amendment or Cancellation of Agreement. Except as otherwise permitted by NRS §278.0205 and Section 5 of this Agreement, this Agreement may be amended from time to time or canceled only upon the mutual written agreement of the parties hereto.

7.05 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, Owner shall hold County, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Owner or those of its contractors, subcontractors, agents, employees, or other persons acting on Owner's behalf which relate to the development of the Project. Owner agrees to and shall defend County and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of Owner's activities in connection with the development of the Project. Owner agrees to indemnify, hold harmless, and provide and pay all costs for a defense for County in any legal action filed in a court of competent jurisdiction by a third party challenging the validity of this Agreement. The provisions of this Section shall not apply to the extent such damage, liability, or claim is solely caused by the intentional or negligent act of County, its officers, agents, employees, or representatives.

7.06 Binding Effect of Agreement. Subject to Section 7.03 hereof, the burdens of this Agreement bind, and the benefits of this Agreement inure to the parties' respective successors in interest.

7.07 Relationship of Parties. It is understood that the contractual relationship between County and Owner is such that Owner is an independent contractor and not an agent of County for any purpose.

7.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or sent by overnight courier or mailed by certified mail postage prepaid, return receipt requested. Notices shall be sent to the address on file to Owner and/or Applicant, as shown on "Exhibit B" and the Comprehensive Planning Department and Office of the District Attorney-Civil Division addressed as follows:

To County: COUNTY OF CLARK  
Department of Comprehensive Planning, Current Planning Division  
Clark County Government Center  
500 South Grand Central Parkway, 1<sup>st</sup> Floor  
P.O. Box 551741  
Las Vegas, NV 89155-1741

With a Copy to: COUNTY OF CLARK  
OFFICE OF THE DISTRICT ATTORNEY-CIVIL DIVISION  
Clark County Government Center  
500 South Grand Central Parkway, 5<sup>th</sup> Floor  
P.O. Box 552215  
Las Vegas, Nevada 89155-2215

Either party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the delivery date by overnight courier or mail is first attempted.

- 7.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 7.10 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers of the County or Owner, as the case may be.
- 7.11 Recording Amendments. Promptly after the Effective Date, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of County and Owner in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon the completion of performance of this Agreement or its earlier revocation or termination, a statement evidencing said completion or revocation signed by appropriate officers of County and Owner shall be recorded in the Official Records of Clark County, Nevada.
- 7.12 Release. Each unit within the Subject Property shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of an Occupancy Permit for the building in which the unit is located.
- 7.13 Headings, Exhibits, Cross-references. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement and the recitals at the front of this Agreement are incorporated herein by the references thereto contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to Sections and Exhibits shall be to Sections and Exhibits of or to this Agreement, unless otherwise specified.
- 7.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such term does not materially impair the parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal

or incapable of being enforced, the parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the parties.

- 7.15 Voluntary Agreement. Owner acknowledges that they had the option of conducting their own public facilities needs assessment study, but instead voluntarily chose to accept the findings, conclusions and fee schedule contained within the County PFNA defined in Section 1.01(n) of this Agreement. Owner further acknowledges and agrees that it voluntarily, willingly and without protest and duress freely enters into this Agreement and accepts the terms and conditions herein.
- 7.16 No Third Party Beneficiary Rights. This Agreement shall inure solely to the benefit of each party hereto and its successors and permitted assigns and nothing in this Agreement, express or implied, shall confer upon any other person or entity, including the public or any member thereof, any rights, benefits or remedies of any nature whatsoever.

*[signatures appear on following page]*



IN WITNESS WHEREOF, this Agreement has been executed by the parties to be effective on the date described in Section 1.01(k).

**COUNTY:**

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

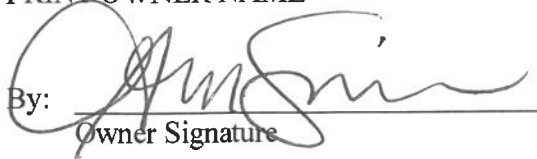
Attest:

By: \_\_\_\_\_  
Tick Segerblom, Chair

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

Vice President  
OWNER: AARON M. SCHEIN  
PRINT OWNER NAME

ENTITY NAME: PICERNE BERMUDA LLC  
PRINT ENTITY NAME

By:   
Owner Signature

**ACKNOWLEDGMENT:**

STATE OF NEVADA            )  
  )ss:  
COUNTY OF CLARK        )

This instrument was acknowledged before me on the 4 day of December, 2015,  
by Aaron M. Schein  
(Printed Name of Document Signer)



NOTARY PUBLIC

  
Signature

**Exhibit “A”  
Legal Description**

**(see next page for attachment)**

EXHIBIT A



LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN THE EAST HALF (E1/2) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 4, TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 4 BEING THE CENTERLINE INTERSECTION OF NEAL AVENUE AND FAIRFIELD AVENUE; THENCE ALONG THE NORTH LINE THEREOF AND THE CENTERLINE OF SAID NEAL AVENUE NORTH 89°56'47" EAST, A DISTANCE OF 55.18 FEET; THENCE DEPARTING SAID NORTH LINE SOUTH 00°03'13" EAST, A DISTANCE OF 30.00 FEET TO THE SOUTH RIGHT-OF-WAY OF SAID NEAL AVENUE BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT-OF-WAY NORTH 89°56'47" EAST, A DISTANCE OF 531.92 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWEST AND HAVING A RADIUS OF 25.00 FEET; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY AND ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°35'58", AN ARC LENGTH OF 39.97 FEET TO THE WEST RIGHT-OF-WAY OF BERMUDA ROAD; THENCE ALONG SAID WEST RIGHT-OF-WAY SOUTH 88°47'13" EAST, A DISTANCE OF 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WEST AND HAVING A RADIUS OF 910.00 FEET, FROM WHICH BEGINNING THE RADIUS BEARS NORTH 88°27'21" WEST; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY AND ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 15°38'05", AN ARC LENGTH OF 248.32 FEET; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY AND DEPARTING SAID CURVE SOUTH 17°10'44" WEST, A DISTANCE OF 237.47 FEET; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY SOUTH 18°27'17" WEST, A DISTANCE OF 112.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EAST AND HAVING A RADIUS OF 1003.50 FEET, FROM WHICH BEGINNING THE RADIUS BEARS SOUTH 71°32'49" EAST; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY AND ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 06°25'13", AN ARC LENGTH OF 112.45 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EAST AND HAVING A RADIUS OF 1005.00 FEET, FROM WHICH BEGINNING THE RADIUS BEARS SOUTH 79°14'17" EAST; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY AND ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 15°00'21", AN ARC LENGTH OF 263.21 FEET TO THE NORTHEAST CORNER OF LOT 1 OF THAT CERTAIN FINAL MAP ENTITLED "ST. ROSE LANDING- A COMMERCIAL SUBDIVISION, RECORDED IN BOOK 152 OF PLATS AT



PAGE 67, ON FILE IN THE OFFICE OF THE CLARK COUNTY, NEVADA RECORDER;  
THENCE ALONG THE NORTH LINE THEREOF SOUTH 89°19'37" WEST, A DISTANCE OF  
392.43 FEET TO THE EAST RIGHT-OF-WAY OF SAID FAIRFIELD AVENUE; THENCE  
ALONG SAID EAST RIGHT-OF-WAY NORTH 00°14'44" WEST, A DISTANCE OF 952.89  
FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEAST AND HAVING  
A RADIUS OF 25.00 FEET; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY  
AND SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°11'31", AN ARC  
LENGTH OF 39.35 FEET TO THE POINT OF BEGINNING.

#### **BASIS OF BEARING**

NORTH 00°11'51" WEST - BEING THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4)  
OF SECTION 4, TOWNSHIP 23 SOUTH, RANGE 61 EAST M.D.M., CLARK COUNTY,  
NEVADA AS SHOWN IN BOOK 152 OF PLATS AT PAGE 67 ON FILE IN THE OFFICE OF  
THE CLARK COUNTY, NEVADA RECORDER.

CONTAINING 10.76 ACRES, MORE OR LESS.

#### **END OF LEGAL DESCRIPTION**

MICHAEL G. SMITH, PLS  
PROFESSIONAL LAND SURVEYOR  
NEVADA LICENSE NUMBER 16201



**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**

Picerne Bermuda LLC  
4518 N. 32nd Street  
Phoenix AZ, 89018

##### **Applicant/Correspondent**

Picerne Bermuda LLC  
4518 N. 32nd Street  
Phoenix AZ, 89018

**Exhibit “C”**  
**Agenda Sheet, Notice of Final Action, and Agenda Map**  
**(see next page for attachments)**



MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT  
(TITLE 30)

**UPDATE**  
NEAL AVE/BERMUDA RD

PUBLIC HEARING  
APP. NUMBER/OWNER/DESCRIPTION OF REQUEST  
**NZC-21-0128-HKM NEVADA PROPERTIES:**

**ZONE CHANGE** to reclassify 12.2 acres from a C-2 (General Commercial) Zone to an R-4 (Multiple Family Residential - High Density) Zone.

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

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

Generally located on the southwest corner of Neal Avenue and Bermuda Road within Enterprise (description on file). MN/al/jd (For possible action)

---

RELATED INFORMATION:

**APN:**

191-04-602-012; 191-04-602-014; 191-04-602-017

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Increase building height to 38 feet where a maximum height of 35 feet is permitted per Table 30.40-3 (an 8.6% increase).
2. Permit alternative landscaping adjacent to Fairfield Avenue and a future private drive where landscaping per Figure 30.64-10 is required.

**DESIGN REVIEWS:**

1. A multiple family residential development.
2. Permit alternative parking lot landscaping where landscaping within parking lots is required per Figure 30.64-14.
3. Increase finished grade to 30 inches (2.5 feet) where a maximum of 18 inches (1.5 feet) is the standard per Section 30.32.040 (a 66.7% increase).

**LAND USE PLAN:**

ENTERPRISE - COMMERCIAL GENERAL

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: N/A
- Site Acreage: 12.2

- Number of Units: 271
- Density (du/ac): 22.2
- Project Type: Multiple family residential development
- Number of Stories: 2 & 3
- Building Height (feet): 38
- Square Feet: 135,034
- Open Space Required/Provided: 27,100/41,782
- Parking Required/Provided: 483/489

### **Neighborhood Meeting Summary**

This request is for a nonconforming zone change to reclassify approximately 12.2 acres from a C-2 zone to an R-4 zone for a multiple family residential development. The applicant conducted a neighborhood meeting on-line on October 26, 2020 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 25 people attended the meeting. Concerns raised at the meeting included building heights, setbacks, landscaping, traffic along Bermuda Road, and the impact on schools.

### **Site Plan**

The plan depicts a multiple family residential development consisting of 271 units on 12.2 acres with a density of 22.2 dwelling units per acre. The site has frontage along Bermuda Road, Neal Avenue, Fairfield Avenue, and a future private drive along the southeastern portion of the site. The development will be a gated community with access from Bermuda Road. The plan also depicts a gate onto Fairfield Avenue for emergency vehicles. No access is depicted from Neal Avenue or the future private drive. The 271 residential units will be divided between 17 buildings that are distributed throughout the site. A clubhouse and recreation area with a cabana are located in the central portion of the development. A maintenance building is attached to the east side of 1 of the residential buildings that is located on the southeastern corner of the site. The development is required to have 483 parking spaces and 489 parking spaces are provided which are distributed throughout the site. The plan indicates that there will be 46 garage spaces and 232 covered parking spaces. The plan depicts the perimeter of the development will be enclosed by a 6 foot high decorative fence. The plan shows the buildings will be set back a minimum of 20 feet from the public streets and a minimum of 10 feet from the future private drive.

### **Open Space & Landscaping**

The project is required to have 27,100 square feet of open space and 41,782 square feet of open space is provided. The open space consists of a recreational area in the central portion of the development which includes a pool, spa, fire pits, and barbeque areas. Other open space includes a dog park in the southeastern portion of the site and landscape areas throughout the development. Landscaping along Bermuda Road consists of a 15 foot wide landscape area along the street outside of the perimeter decorative fence with trees, shrubs, groundcover and a detached sidewalk. Along Neal Avenue the plans depict an attached sidewalk along the street with a minimum 10 foot wide landscape area outside of the perimeter decorative fence consisting of trees, shrubs, and groundcover. An attached sidewalk is depicted along Fairfield Avenue with

a minimum 5 foot wide landscape area outside of the perimeter decorative fence consisting of trees, shrubs, and groundcover. Per Figure 30.64-10 the landscaping along Fairfield Avenue is required to have an average width of 6 feet and the plans appear to show an average of approximately 5 feet. No landscaping is depicted along the future private drive outside of the decorative fence. The proposed perimeter decorative fence is designed so that landscaping within the fenced area will be visible from the streets. Within the parking areas the plan depicts the use of landscape diamonds rather than landscape islands; however, the required number of trees for the parking areas are provided and distributed throughout the project.

#### Elevations

The buildings for the residential units are 2 to 3 stories with heights of 24 feet for the 2 story buildings and 38 feet for the 3 story buildings. The residential buildings all have pitched roofs with concrete tile roofing material and the exterior of these buildings consists of a stucco finish painted in earth tone colors with stone veneer. The cabana building and maintenance buildings are both 1 story with a maximum height of approximately 17 feet. These buildings have pitched roofs with concrete tile roofing material and stucco exteriors painted in earth tone colors. The clubhouse building is 1 story with a maximum height of approximately 28 feet. The clubhouse building has a pitched roof with concrete tile roofing material and the exterior of the building consists of a stucco painted in earth tone colors and stone veneer.

#### Floor Plans

The proposed development consists of a total of 135,034 square feet of building area, which is divided between 17 buildings for the 271 residential units, clubhouse building, cabana building, and a maintenance building. The residential units will consist of 120 one bedroom units, 139 two bedroom units, and 12 three bedroom units that are between 819 square feet to 1,331 square feet in area. The maintenance building has an area of approximately 433 square feet consisting of a restroom for maintenance staff, workspace, and storage areas. The cabana building has an area of approximately 1,149 square feet and consists of restrooms, an outdoor covered patio, pool equipment areas, and storage area. The clubhouse building has an area of approximately 6,562 square feet which consists of a fitness center, leasing offices, and multi-purpose rooms for the use of the residents.

#### Applicant's Justification

The applicant indicates that the City of Henderson approved a mixed-use development at the southwest corner of Bermuda Road and St. Rose Parkway, which included 2,900 residential units (single and multiple family) and up to to 670,000 square feet of commercial, retail, and office uses. The approval of this mixed-use development has increased demand for residential development and the need for housing options in this area, which this development will provide. The increase in building height is to allow for architectural enhancements that improve the appearance of the development. The alternative parking lot landscaping is being requested to allow for a design which is able to provide required parking for the development. If the landscape islands were provided within the parking area it would require a reduction in required parking. The increase in finished grade is necessary to level the site for development for access per the American Disability Act design requirements and for drainage considerations.

**Prior Land Use Requests**

Application Number	Request	Action	Date
VS-1049-08	Vacated and abandoned government patent easements	Approved by PC	December 2008
ZC-0683-08	Reclassified the northern portion of the site to C-2 zoning for future commercial development	Approved by BCC	August 2008
ZC-0018-95	Reclassified the southern portion of the site to a C-2 zoning wholesale/retail landscape materials business	Approved by BCC	March 1995

**Surrounding Land Use**

	Planned land Use Category	Zoning District	Existing Land Use
North	Residential High (from 8 to 18 du/ac)	R-3	Multiple family residential
South	Commercial General & City of Henderson	C-2 & I-P	Undeveloped
East	Commercial General & City of Henderson	C-2 & RM-16	Tavern, single family residential, multiple family residential, & undeveloped
West	Residential Suburban (up to 8 du/ac)	R-1 & R-2	Single family residential

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

**Related Applications**

Application Number	Request
VS-21-0127	A request to vacate rights-of-way is a companion item on this agenda.

**STANDARDS FOR APPROVAL:**

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

**Analysis****Current Planning****Zone Change**

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

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

Since the adoption of the Enterprise Land Use Plan in October 2014 there have been major changes and development occurring along the St. Rose Parkway within the City of Henderson. Major employment centers are being developed on the south side of St. Rose Parkway within the City of Henderson. Additionally, the City of Henderson approved a mixed-use development in October 2020 at the southwest corner of Bermuda Road and St. Rose Parkway. Due to these changes in the area there is an increase demand for residential development and for different housing options. Therefore, staff finds that there has been a change in trends and facts that 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 proposed project is a multiple family residential development with a density of approximately 22.2 dwelling units per acre. To the north of this site are an existing multiple family residential development in an R-3 zone with a density of 18 dwelling units per acres and a multiple family residential project currently underdevelopment with a density of 22.5 dwelling units per acres. To the east, beyond the tavern, within the City of Henderson is a residential development with a density of 16 dwelling units per acre. To the south within the City of Henderson is a site approved for a mixed-use development (Henderson West) on 103 acres which was approved for 2,900 residential units with a density of 28.2 dwelling units per acre. Therefore, staff finds the density and intensity of the proposed development is compatible with exiting and planned land uses in the surrounding 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 services and facility providers that this development would have an adverse effect on public facilities and services in this area. The Clark County School District has indicated that this development would increase student yield by 76 students for the schools that serve this area (38 elementary students, 18 middle school students, and 20 high school students). The School District also indicates that 2 schools that would serve this area (Webb Middle School & Liberty High School) are over capacity with current enrolment. As a residential development the project would create an increased demand for parks within the area; however, this is off-set by the on-site recreational areas being provided for the residents of the development.

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

The proposed development complies with Goal 7 of the Comprehensive Master Plan which encourages providing housing alternatives to meet a range of lifestyle choices, ages and affordability levels. The site is located on and accessed from Bermuda Road and is near St. Rose Parkway, which are major streets designed to accommodate high volumes of traffic. The site is also located in close proximity to other multiple family residential developments, office/commercial developments, and public facilities; therefore, the project complies in part

with Urban Specific Policy 10 of the Comprehensive Master Plan to encourage site designs to be compatible with adjacent land uses and off-site circulation patterns. The request also complies in part with Urban Specific Policy 53 to ensure that multiple family developments are compatible with adjoining land uses and densities. Additionally, the request complies in part with Urban Specific Policy 57 of the Comprehensive Master Plan to encourage multiple family developments to locate near road networks that can accommodate higher residential densities.

## **Summary**

### **Zone Change**

There has been a change in trends and facts in this area which make the proposed nonconforming zone change appropriate for this area. The density and intensity of the proposed project is compatible with existing and planned land uses in the surrounding area. With the amount of commercial development along St. Rose Parkway, it is unlikely that commercial development within the existing C-2 zone will extend as far to the north as planned. There is no indication of this project having a substantial adverse effect on public facilities and services in the area. In addition, the project will comply with other goals and policies. Based on the criteria listed above, staff finds the applicant has satisfied the requirements for a Compelling Justification to warrant approval of the zone change.

### **Waivers of Development Standards**

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

#### **Waiver of Development Standards #1**

The request is to increase building height to 38 feet where 35 feet is the standard. The proposed increase is for architectural features and mechanical equipment screening and not for habitable space within the apartment units. The rooflines are broken-up by variations in height, so the buildings are not a solid mass at 38 feet in height. Setbacks from the property lines and the distribution of the buildings on the site also mitigate the massing effect of the structures. Additionally, with the current C-2 zoning, commercial buildings up to 50 feet in height could be allowed within 10 feet of the streets, which would have a greater visual impact on the abutting properties than the proposed heights of the buildings for this project. Therefore, staff can support this request.

#### **Waiver of Development Standards #2**

The proposed waiver of development standards is for landscaping area along the west side of the site adjacent to Fairfield Avenue and along the southern boundary of the site adjacent to a future private drive. The landscaping area along Fairfield Avenue will be a minimum of 5 feet in width where an average of 6 feet is required. However, additional landscaping material will be provided within the perimeter decorative fence that will be visible from the street along Fairfield Avenue. The area that is adjacent to the future private drive will face future commercial development and again landscaping material within the perimeter decorative fence will be visible from the future

private drive. Therefore, staff believes the proposed landscaping will be adequate for the site and can support this request.

#### Design Reviews #1 & #2

The proposed project provides open space in excess of Code requirements. Amenities within the open spaces include a dog park, pool and spa area, and open spaces large enough to allow for active recreational uses. The clubhouse is centrally located on the site and acts as a community center for the residents of the complex; therefore, staff finds the project complies with Urban Specific Policy 51 of the Comprehensive Master Plan for multiple family projects to provide several amenities such as usable open space, swimming pools, and community centers. Parking areas are distributed throughout the site; however, the applicant is requesting to use landscape diamonds rather than provide landscaping islands within the parking areas. The uses of landscape diamonds is being requested to maximize parking for the residents of the development and avoid a waiver of development standards for a parking reduction. The rooflines are broken-up by variations in height so that the buildings are not solid mass at 38 feet in height. Setbacks from the property lines and the distribution of the buildings on the site also mitigate the massing effect of the structures. This complies with Urban Specific Policy 55 of the Comprehensive Master Plan which encourages design alternatives and spatial distribution rather than the massing of buildings; therefore, staff can support the design reviews.

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

##### Design Review #3

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.

#### **Department of Aviation**

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

#### **Staff Recommendation**

Approval. This item has been forwarded to the Board of County Commissioners 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:** May 4, 2021 – APPROVED – Vote: Aye: Stone, Kirk, Waltho, Frasier, Kilarski, Castello Nay: Nguyen

#### **Current Planning**

- Resolution of Intent to complete in 3 years;

- Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a new application for a nonconforming zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

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

- Drainage study and compliance;
- Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;
- Traffic study and compliance;
- Full off-site improvements.
- Applicant is advised that the installation of detached sidewalks will require the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control or execute a License and Maintenance Agreement for non-standard improvements in the right-of-way; and that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.

#### **Department of Aviation**

- Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; 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.

#### **Building Department - Fire Prevention**

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

#### **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



#0346-2020 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:** Enterprise - denial.

**APPROVALS:** 2 cards

**PROTESTS:** 5 cards, 20 letters

**APPLICANT:** PICERNE DEVELOPMENT CORPORATION

**CONTACT:** KAEMPFER CROWELL, 1980 FESTIVAL PLAZA DR., STE 650, LAS VEGAS, NV 89135



# Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741  
(702) 455-4314 • Fax (702) 455-3271

Nancy A. Amundsen, Director

## NOTICE OF FINAL ACTION

June 14, 2021

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

REFERENCE: NZC-21-0128

On the date indicated above, a Notice of Final Action was filed with the Clark County Clerk, Commission Division; pursuant to NRS 278.0235 and NRS 278.3195, which starts the commencement of the twenty-five (25) day limitation period specified therein.

The above referenced application was presented before the Clark County Board of County Commissioners at their regular meeting of **June 02, 2021** and was **APPROVED** subject to the conditions listed below. You will be required to comply with all conditions prior to the issuance of a building permit or a business license, whichever occurs first.

Time limits to commence, complete or review this approval, apply only to this specific application. A property may have several approved applications on it with each having its own expiration date. **It is the applicant's responsibility to keep the application current.**

### **CONDITIONS OF APPROVAL -**

#### **Current Planning**

- Resolution of Intent to complete in 3 years;
- Relocate the 3 trash enclosures that are nearest to the existing single family homes to the eastern portion of the property;
- Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a new application for a 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 • TICK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II  
YOLANDA T. KING, County Manager



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Nancy A. Amundsen, Director

- Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;
- Traffic study and compliance;
- Full off-site improvements.
- Applicant is advised that the installation of detached sidewalks will require the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control or execute a License and Maintenance Agreement for non-standard improvements in the right-of-way; and that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.

## Department of Aviation

- Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; 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.

## Building Department - Fire Prevention

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## Clark County Water Reclamation District (CCWRD)

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## BOARD OF COUNTY COMMISSIONERS

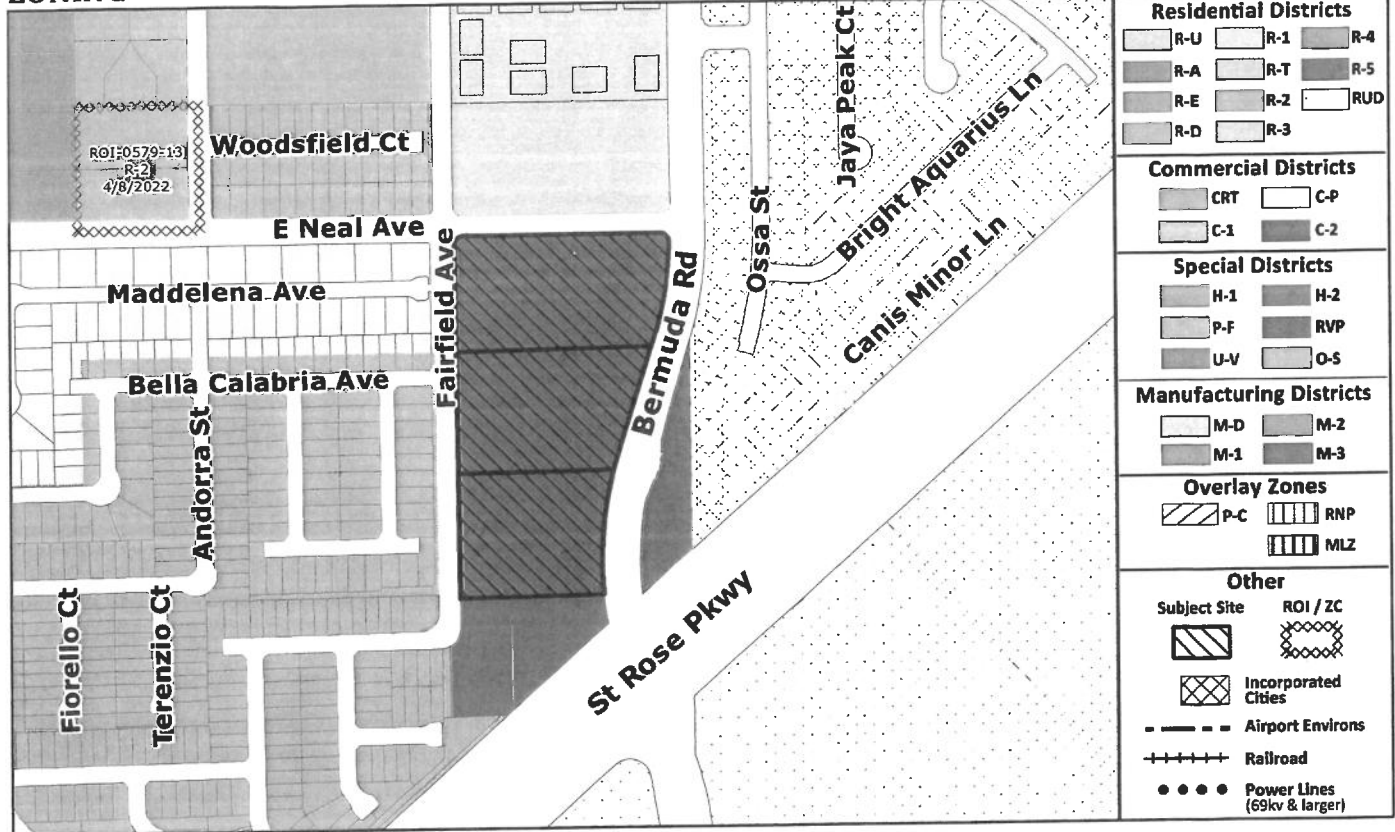
MARILYN KIRKPATRICK, Chair • JAMES B. GIBSON, Vice Chair  
MICHAEL NAFT • JUSTIN C. JONES • TICK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II  
YOLANDA T. KING, County Manager

# Commission Agenda Map

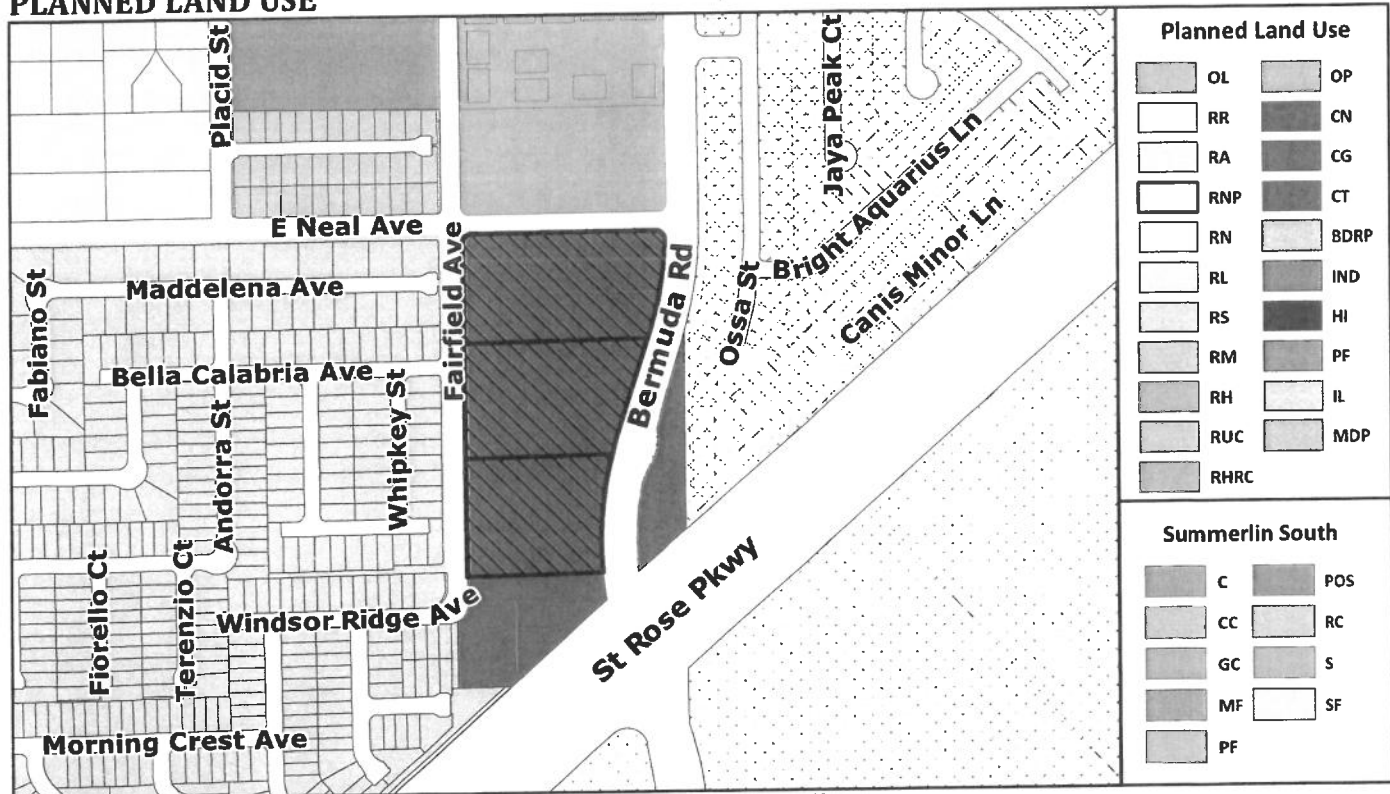
NZC-21-0128

Clark County Department of Comprehensive Planning, Clark County, Nevada

## ZONING



## PLANNED LAND USE



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

Subject Parcel(s)  
19104602012  
19104602017  
19104602014



0 125 250 Feet  
Map Created on 3/18/2021

