CLARK COUNTY BOARD OF COMMISSIONERS

ZONING / SUBDIVISIONS / LAND USE

AGENDA ITEM

Petitioner: Nancy A. Amundsen, Director, Department of Comprehensive Planning

Recommendation: ORD-22-900343: Introduce an ordinance to consider adoption of a Development Agreement with D.R. Horton for a single family residential development (Serene and Fort Apache) on 7.6 acres, generally located west of Fort Apache Road and south of Serene Avenue within Enterprise. JJ/dd (For possible action).

FISCAL IMPACT:

None by this action.

BACKGROUND:

The Board of County Commissioners (Board) approved a land use application NCZ-21-0303 for a single family residential development (Serene and Fort Apache) on 7.6 acres, generally located west of Fort Apache Road and south of Serene Avenue 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 June 22, 2022.

Cleared For Agenda
06/08/22

BILL NO. _____

SUMMARY - An ordinance to adopt the Development Agreement with D.R. Horton for a single family residential development (Serene and Fort Apache) on 7.6 acres, generally located west of Fort Apache Road and south of Serene Avenue within Enterprise.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH D.R. HORTON FOR A SINGLE FAMILY RESIDENTIAL DEVELOPMENT (SERENE AND FORT APACHE) ON 7.6 ACRES, GENERALLY LOCATED WEST OF FORT APACHE ROAD AND SOUTH OF SERENE AVENUE WITHIN ENTERPRISE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

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

SECTION 1. In accordance with the provisions of Section 278.0203 of the Nevada Revised Statutes and Chapter 30.20 of the Clark County Code, the Development Agreement with D.R. Horton for a single family residential development (Serene and Fort Apache) on 7.6 acres, generally located west of Fort Apache Road and south of Serene Avenue 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 _____, 2022

INTRODUCED by: _____

PASSED on the _____day of_____, 2022

VOTE:

AYES: _____

_____

_____

_____

_____

_____

_____

NAYS: _____

_____

_____

ABSTAINING:

_____

_____

ABSENT:

_____

_____

_____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
JAMES B. GIBSON, Chair

ATTEST:

_____
Lynn Marie Goya, County Clerk

This ordinance shall be in force and effect from and after the _____day of _____2022.

APN(s): **176-19-701-004, 007, 008**
Please Return to: Joel McCulloch
Comprehensive Planning Department
1st Floor, Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada 89155

DEVELOPMENT AGREEMENT

BETWEEN

THE COUNTY OF CLARK

AND

D.R. HORTON

FOR

SERENE & FORT APACHE

ORD-22-900343

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 **D.R. HORTON** 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-21-0303**, the Agenda Sheet, Notice of Final Action and agenda map attached hereto as Exhibit "C" and incorporated herein by this reference.

(g) "County" means the County of Clark, State of Nevada together with its successors and assigns.

(h) "County Commission" means the Board of County Commissioners or Planning Commission of the County of Clark, State of Nevada.

(i) "County Master Plan" means the comprehensive plan adopted by the County Commission in 1983 and all amendments thereto including, but not limited to, all adopted land use, development guides and elements, including the land use and development guide and the general plan map for unincorporated portions of the Las Vegas Valley adopted by the County Commission on January 24, 1974, except as amended by the adoption of more recent plans in effect as of the Effective Date.

(j) "Development Agreement Ordinance" means Chapter 30.20 of the Clark County Unified Development Code (Title 30) along with any other Chapters of the Clark County Code that are relevant to this Agreement.

(k) "Effective Date" means the date, on or after the adoption by the County Commission, of an ordinance approving execution of this Agreement whereas the Agreement has been executed and signed by both parties, that this Agreement is recorded in the Office of the County Recorder of Clark County, Nevada.

(l) "NDOT" means Nevada Department of Transportation.

(m) "NRS" means Nevada Revised Statutes.

(n) "PFNA" means the Southwest Las Vegas Valley Public Facilities Needs Assessment Report, dated December 1, 2000, incorporated herein by this reference and approved by the County Commission on January 2, 2001.

(o) "Project" means the Subject Property and the proposed development of the Subject Property described in this Agreement.

(p) "Subject Property" means that certain real property, which Owner owns or has the right to acquire, located in the County and more particularly described on Exhibit "A".

(q) "Term" means the term of this Agreement together with any extension agreed upon pursuant to Section 7.02 hereof.

SECTION 2 – RECITAL OF PREMISES, PURPOSE AND INTENT

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

(a) Statutory Authorization. The County is authorized, pursuant to NRS §278.0201 through 278.0207, inclusive, to enter into binding Development Agreements with persons having a legal or equitable interest in real property to establish long range plans for the development of such property.

(b) Ownership Interest. Owner represents that it has, will acquire, or has the right to acquire, fee title ownership of the Subject Property.

(c) County Authorization, Hearing and Ordinance. All preliminary processing with regard to the Project has been duly completed in conformance with all applicable laws, rules and regulations. The County Commission, having given notice as required by law, held a public hearing on Owner's application seeking approval of the form of this Agreement and the execution hereof by the County. At the described meeting, the County Commission found that this Agreement is consistent with the County's plans, policies and regulations, including the County Master Plan, that the Agreement meets the requirements of Title 30 of the Code, and that the execution hereof by and on behalf of the County is in the public interest and is lawful in all respects. During the same meeting at which the public hearing was held, the County Commission adopted the Ordinance approving this Agreement and authorizing the execution hereof by duly constituted officers of the County. Said ordinance was scheduled to be effective two weeks after adoption. County agrees to record a certified copy of the ordinance as required by NRS §278.0207.

(d) County Intent. The County desires to enter into this Agreement in conformity with the requirements of NRS, and as otherwise permitted by law, and this Agreement to provide for public services; public uses and urban infrastructure; to promote the health, safety and general welfare of the County and its inhabitants; to minimize uncertainty in planning for and securing orderly development of the Project and surrounding areas; to insure attainment of the maximum efficient utilization of resources within the County at the least economic cost to its citizens; and to otherwise achieve the goals and purposes for which the State statute and County ordinance authorizing Development Agreements were enacted.

(e) Owner Intent. In accordance with the legislative intent evidenced by NRS §278.0201 through §278.0207, inclusive, authorizing Development Agreements and the intent of the County in adopting an ordinance allowing Development Agreements, Owner wishes to obtain reasonable assurances that Owner may develop the Project in accordance with the conditions established in this Agreement. Owner acknowledges that there are insufficient public services, which includes facilities and infrastructure, existing or planned at this time. In order to develop the Subject Property, Owner is willing to enter into this Development Agreement in order to pay Owner's fair share of the costs to provide certain public services, facilities, and infrastructure in the area of this Project. Owner further acknowledges that this Agreement was made a part of the County Record at the time of its approval by the County Commission and that the Owner agrees without protest to the requirements, limitations, or conditions imposed by this Agreement and the Concurrent Approvals.

(f) Acknowledgment of Uncertainties. The parties acknowledge that circumstances beyond the control of either party could defeat their mutual intent that the Project be developed in the manner contemplated by this Agreement. Among such circumstances is the unavailability of water or other limited natural resources, federal regulation of air and water quality, and similar conditions. Owner recognizes that water shortages could affect the County's ability to perform its obligations hereunder. Owner further acknowledges and agrees this Agreement does not relieve the Owner from compliance with existing, changed, modified or amended rules regulations, laws, ordinances,

resolutions, fees codes, etc., of other governmental agencies. Such rules, regulations, laws, ordinances, resolutions, fees, codes, etc. of governmental entities must be complied with by the Owner and are not locked in nor a part of this Agreement. It is not the intent of the parties nor shall this Section be construed as excusing the County of any obligation hereunder or depriving Owner of any right under this Agreement, which can be performed.

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

2.02 Incorporation of Recitals. The foregoing recitals shall be deemed true and correct in all respects with respect to this Agreement and shall serve as the basis for the interpretation of this Agreement.

2.03 Permitted Uses, Density, Height and Size of Structures. Pursuant to NRS §278.0201 and the Code, this Agreement must set forth the maximum height and size of structures to be constructed on the Subject Property, the density of uses and the permitted uses of the land. County agrees the Project may be developed to the density and with the land uses set forth in the Land Use and Development Guide/Plan, along with the development standards set forth in the Concurrent Approvals and the Applicable Rules.

SECTION 3 – DEVELOPMENT OF THE PROJECT

3.01 Time for Construction and Completion of the Project. Subject to the terms of this Agreement and Applicable Rules, Owner shall have discretion as to the time of commencement, construction, phasing, and completion of any and all development of the Project. Nothing herein shall be construed to require the Owner to develop the Project or any part thereof.

3.02 Reliance on Concurrent Approvals and Applicable Rules. County hereby agrees that Owner will be permitted to carry out and complete the entire Project in accordance with the uses and densities set forth in the Concurrent Approvals subject to the terms and conditions of this Agreement and the Applicable Rules. Pursuant to the terms of this Agreement and subject to Owner's infrastructure obligations described in this Agreement, the development of the Project may proceed.

3.03 Air Quality Conformity. Owner acknowledges County has adopted an air quality plan and agrees to comply with the applicable provisions thereof, including any state and federal rules and regulations.

3.04 Dust Mitigation. Owner will educate Builders and contractors within the Project of the applicable rules of the Clark County Department of Air Quality & Environmental Management with respect to dust mitigation and will encourage compliance therewith.

3.05 Water Conservation. Owner agrees to encourage water conservation in the Project. Owner agrees to design any open space using the best available, water conserving techniques, including but not limited to proper soil preparation and water conserving irrigation systems and equipment. Landscaping adjacent to public streets shall be limited to water conserving plant materials.

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

SECTION 4 – PUBLIC FACILITIES

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

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

CHART 4.01-A PUBLIC FACILITIES CHART

Type of Development	Infrastructure Category		Total
	Parks	Public Safety[1]	
Single Family Dwelling Unit (per dwelling unit)	$532.93	$900.81	$1433.74
Multi Family Dwelling Unit (per dwelling unit)	$532.93	$883.24	$1416.17
Retail (per square foot gross floor area)	N/A	$0.60	$0.60
Office (per square foot gross floor area)	N/A	$0.67	$0.67
Industrial (per square foot gross floor area)	N/A	$0.40	$0.40
Hotel (per room)	N/A	$902.27	$902.27
[1] Fees only for Fire; no Metro			

4.02 Parks. In addition to the fees for parks in Chart 4.01-A above, Owner agrees that this development is subject to the Residential Construction Tax, as set forth and defined in Nevada Revised Statutes.

4.03 Traffic Study. Owner shall prepare and submit to the County (and NDOT if applicable) a Traffic Study (if required) acceptable to the County (and NDOT if applicable) for the Subject Property prior to submittal of any final map for technical review, or prior to County issuance if any grading or building permits; whichever occurs first, and Owner agrees to comply with said Study as approved by the County. Any modification to the 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 wavier of any default or of any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceeding which it may deem necessary to protect, assert, or enforce any of its right or remedies.

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

5.04 Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged default, the party alleging the default shall give notice of intent to amend or terminate this Agreement pursuant to NRS §278.0205 (the "Notice of Intent"), with notices sent in the manner

provided by Section 7.08 of this Agreement. Following any such Notice of Intent, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission.

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

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

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

SECTION 6 – CONFLICTING LAWS

6.01 Conflicting State or Federal Rules. In the event that any conflicting state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the County, this Agreement shall remain in full force and effect as to those provisions not affected, and the conflicting laws or regulations shall not be applied retroactively, and:

(a) Notice and Copies. Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy or an account of any such action or inaction together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation, or accommodate any such action or inaction.

6.02 County Commission Hearings. In the event the County believes that an amendment to this Agreement is necessary pursuant to this Section 6 due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the County Commission. The County Commission shall determine the exact nature of the amendment or suspension necessitated by such federal or state law or regulation or action or inaction. Owner shall have the right to offer oral and written testimony at the hearing. Any suspension or modification ordered by the County Commission pursuant to such hearing is subject to judicial review as set forth in Section 5.06. The parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

6.03 Cooperation in Securing Permits. The County shall use its Best Efforts to cooperate with Owner in securing any County permits, licenses or other authorizations which may be required as a result of any amendment or suspension resulting from actions initiated under this Section 6. Owner will be responsible to pay all applicable fees in connection with securing of the permits.

SECTION 7 – GENERAL PROVISIONS

7.01 Enforcement and Binding Effect. Subject to the limitations of NRS §278, this Agreement is enforceable by either party in accordance with its terms notwithstanding any change (which, except for this Agreement, would otherwise be applicable) in any of the Applicable Rules. Nothing in this Agreement shall prevent the County from increasing "cost based fees" which are deemed to be administrative fees for issuance of land use approvals, building permits, plan checks, or inspections which are based upon actual costs to the County and which are uniformly applied to all development and construction subject to the County's jurisdiction. "Cost based fees" do not include the fees addressed in Section 4.01 of this Agreement.

7.02 Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the date the land use application expires or upon the eighth (8th) anniversary of the Effective Date, or when all obligations hereunder are satisfied, whichever occurs earliest, unless extended by written agreement executed by County and Owner.

7.03 Assignment.

(a) Transfer Not to Relieve Owner of its Obligation. Except as expressly provided herein, no assignee or transferee of any portion of the Project within the area covered by a recorded subdivision map shall be subject to the obligations of Owner as to the portion of the Project so assigned or transferred nor be deemed to have assumed all such obligations, and such assignment or transfer shall not relieve Owner of its obligation as to the assigned or transferred portion of the Project.

(b) Transfer to an Affiliate of Owner. The rights of Owner under this Agreement may be freely transferred or assigned to any entity, partnership, or corporation, which Owner controls, or in which Owner has a controlling interest, or which controls Owner; provided, such entity shall assume in writing all obligations of Owner hereunder.

(c) Third Party Assignment. The rights and obligations of Owner under this Agreement may be freely transferred or assigned to a third party not affiliated with Owner, provided such third party assumes in writing all obligations of Owner hereunder as to the assigned or transferred portion of the Project along with a copy of the sale, transfer, conveyance, or assignment agreement wherein the third party assumes the obligations of the Owner. Upon any such assignment hereunder, the Owner shall be relieved of all obligations and liabilities under or in connection with this agreement. In connection with the conveyance of any portion of the property, Owner shall provide County with written notice of any sale, transfer, conveyance or assignment of any unimproved portion of the Project.

(d) Financial Transactions. Owner has full discretion and authority to transfer, assign or encumber the Project or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transaction at any time and from time to time without permission of or notice to County.

7.04 Amendment or Cancellation of Agreement. Except as otherwise permitted by NRS §278.0205 and Section 5 of this Agreement, this Agreement may be amended from time to time or canceled only upon the mutual written agreement of the parties hereto; provided however, that to the extent this Agreement expires pursuant to Section 7.02 above.

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

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

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

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

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

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

Either party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the

manner described shall be deemed delivered on the day of personal delivery or the delivery date by overnight courier or mail is first attempted.

7.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

7.10 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers of the County or Owner, as the case may be.

7.11 Recording Amendments. Promptly after the Effective Date, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of County and Owner in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon the completion of performance of this Agreement or its earlier revocation or termination, a statement evidencing said completion or revocation signed by appropriate officers of County and Owner shall be recorded in the Official Records of Clark County, Nevada.

7.12 Release. Each unit within the Subject Property shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of an Occupancy Permit for the building in which the unit is located.

7.13 Headings, Exhibits, Cross-references. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement and the recitals at the front of this Agreement are incorporated herein by the references thereto contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to Sections and Exhibits shall be to Sections and Exhibits of or to this Agreement, unless otherwise specified.

7.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such term does not materially impair the parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the parties.

7.15 Voluntary Agreement. Owner acknowledges that they had the option of conducting their own public facilities needs assessment study, but instead voluntarily chose to accept the findings, conclusions and fee schedule contained within the County PFNA defined in Section 1.01(n) of this Agreement. Owner further acknowledges and agrees that it voluntarily, willingly and without protest and duress freely enters into this Agreement and accepts the terms and conditions herein.

7.16 No Third Party Beneficiary Rights. This Agreement shall inure solely to the benefit of each party hereto and its successors and permitted assigns and nothing in this Agreement, express or implied, shall confer upon any other person or entity, including the public or any member thereof, any rights, benefits or remedies of any nature whatsoever.

[signatures appear on following page]

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the day and year first above written, as authorized by Ordinance No. 1579 of the Clark County Code, to be effective on the date shown in Section 2.01(c).

COUNTY:

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

Attest:

By: _____
James B. Gibson, Chair

_____
Lynn Marie Goya, County Clerk

ACKNOWLEDGMENT:

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

This instrument was acknowledged before me on the _____ day of _____, _____,

By_____, Chair of the Board of County Commissioners, County of Clark, State of Nevada

NOTARY PUBLIC

_____
Signature

My Commission expires: _____

OWNER:

D.R. Horton, Inc.
PRINT OWNER NAME

By: _____
Owner Signature

ACKNOWLEDGMENT:

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

This instrument was acknowledged before me on the 10th day of May, 2022,

by Phil Bailey
(Printed Name of Document Signer)

NOTARY PUBLIC

_____
Signature

My Commission expires: October 28,2025

YVETTE R. BAILEY
Notary Public-State of Nevada
Appointment No. 21-5802-01
My Appointment Expires Oct. 28 2025

Exhibit "A"
Legal Description

(see next page for attachment)

EXHIBIT A

TRI-CORE SURVEYING, LLC
6753 WEST CHARLESTON BLVD.
LAS VEGAS, NV 89146

File: 03222.0001\Lgl_Serene-Fort Apache
By: ML
Date: April 27, 2022
Page 1 of 1



4/27/2022

LEGAL DESCRIPTION

THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA;

TOGETHER WITH THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA;

TOGETHER WITH THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 19, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA;

EXCEPTING THEREFROM THAT PORTION THEREOF DEDICATED TO CLARK COUNTY PER DEDICATION IN FEE ON FILE IN THE OFFICE OF THE CLARK COUNTY, NEVADA RECORDER AS INSTRUMENT No. 20211109-0001170 OF OFFICIAL RECORDS.

END OF DESCRIPTION.

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

Owner Name D.R. Horton Inc
Street Address 1081 Whitney Ranch Drive Ste 141
City. State, ZIP Henderson, NV 89052

Applicant/Correspondent

Applicant/Correspondent Kimley-Horn
Street Address 6671 Las Vegas Boulevard South, Suite 320
City. State, ZIP Las Vegas, NV 89119

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

(see next page for attachments)

08/18/21 BCC AGENDA SHEET

PLANNED UNIT DEVELOPMENT
(TITLE 30)

UPDATE
SERENE AVE/FORT APACHE RD

PUBLIC HEARING
APP. NUMBER/OWNER/DESCRIPTION OF REQUEST
NZC-21-0303-CRUZ FAMILY TRUST & CRUZ LEONDINO G & NARCISA T TRS:

ZONE CHANGE to reclassify 7.6 acres from an R-E (Rural Estates Residential) Zone and an H-2 (General Highway Frontage) Zone to an RUD (Residential Urban Density) Zone.
USE PERMIT for an attached (townhouse) planned unit development (PUD).
WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** reduced setback; **2)** reduce street intersection off-set; **3)** reduce width of private streets; **4)** reduce back of curb radius; **5)** modify private street sections; and **6)** allow modified driveway design standards.
DESIGN REVIEWS for the following: **1)** an attached single family residential planned unit development; **2)** signage; and **3)** finished grade.

Generally located on the west side of Fort Apache Road and the south side of Serene Avenue (alignment) within Enterprise (description on file). JJ/md/jd (For possible action)

RELATED INFORMATION:

APN:
176-19-701-004; 176-19-701-007; 176-19-701-008

WAIVERS OF DEVELOPMENT STANDARDS:

1. Eliminate the setback from any street, drive aisle, sidewalk, or curb within a PUD to zero feet where a minimum of 10 feet is required per Section 30.24.080 (a 100% reduction).
2. Reduce street intersection off-set to 73 feet where a minimum of 125 feet is required per Chapter 30.52 (a 41.6% reduction).
3. Reduce the width of private streets to 26 feet where a minimum width of 37 feet with 36 feet of drivable surface is required per Chapter 30.52 (a 29.8% reduction).
4. Reduce back of curb radius to 3 feet where a minimum radius of 20 feet is required per Uniform Standard Drawing 201 (an 85% reduction).
5. Allow flush curb/zero curb and an inverted crown on private streets where an "R" curb or "Roll" curb is required per Uniform Standard Drawing 210.S1.
6. Reduce the driveway distance to the property line to 2 feet where a minimum distance of 6 feet is required per Uniform Standard Drawing 222 (a 66.7% reduction).

DESIGN REVIEWS:

1. Attached single family residential planned unit development.
2. Signage.
3. Increase finished grade to 103 inches where a maximum of 18 inches is the standard per Section 30.32.040 (a 472.3% increase).

LAND USE PLAN:
ENTERPRISE - COMMERCIAL GENERAL
ENTERPRISE - RESIDENTIAL HIGH (FROM 8 DU/AC TO 18 DU/AC)

BACKGROUND:
Project Description
General Summary

- Site Address: N/A
- Site Acreage: 7.6
- Number of Lots: 93
- Density (du/ac): 12.4
- Minimum/Maximum Lot Size (square feet): 1,159 (gross and net)/1,290 (gross and net)
- Project Type: Attached (townhouse) planned unit development
- Number of Stories: 2
- Building Height (feet): 26
- Square Feet: 1,319 to 1,417
- Open Space Required/Provided: 15,597/52,636
- Parking Required/Provided: 243/248

Neighborhood Meeting Summary
This request is for a nonconforming zone change to reclassify approximately 7.6 acres from R-E and H-2 to an RUD zoning district for an attached (townhouse) planned unit development. The proposed request consists of 3 parcels; 2 of which conform to the land use plan (APNs 176-19-701-007 and 179-19-701-008) while the third parcel (APN 176-19-701-004) does not conform. The applicant conducted a neighborhood meeting on April 7, 2021, as required by the nonconforming zone boundary amendment process. Sixteen members of the public attended the meeting and expressed concerns about traffic, drainage, and the grade of the development being higher than the adjacent single family residences.

Site Plans
The plans depict an attached single family residential development situated on a 7.6 acre project site consisting of 93 residential lots with a density of 12.4 dwelling units per acre. The development consists of townhouse, residential dwellings under separate ownership that are attached to 1 or more dwellings on opposite sides of the structure. The proposed development features a total of 26 buildings, each containing 3 to 4 units that are adjacent to 30 foot wide private streets. A waiver of development standards is required to reduce the width of the private streets within the interior of the development. The proposed development requires 15,597 square feet of open space where 52,636 square feet of open space is provided. Open space areas, with a minimum width of 10 feet, are dispersed throughout the interior of the site measuring between 1,732 square feet to 23,092 square feet in area. The open space areas are interconnected with a series of 4 foot wide pedestrian sidewalks, providing connectivity between the townhouses. Parking will consist of garage parking for residents and surface parking for visitors. The development requires 243 parking spaces where 248 spaces are provided. The driveways associated with each unit are a minimum of 5 feet in length. Driveways for each unit are set back 2.5 feet from the side property line, necessitating a waiver of development standards

request. Each lot has a minimum total area of 1,159 square feet. The minimum setbacks for each townhouse unit are as follows:

*All models are rear loaded

- Lot area – 1,159 to 1,290 square feet
- Rear – zero feet to common area
- Front – 5 feet to private street
- Interior side – zero feet
- Side street (corner) – zero feet
- Perimeter – 10 feet
- Driveway length – 5 feet to garage

There are no front loaded models associated with the proposed development. The front entry to the rear loaded models open on to common area equitably distributed throughout the interior of the development. A minimum building setback of 10 feet is provided around the perimeter of the site. A waiver of development standards is requested to maintain a zero foot setback for all residential units from the adjacent private streets, drive aisles, curbs, and sidewalks. More often, the setback is typically 5 feet to match the driveway length for all units; however, the setback is set at zero feet to conservatively account for the setbacks for residential structures when adjacent to the internal pedestrian sidewalks. The proposed development will not feature entry and exit gates to the community. The primary entrance to the development is granted from Serene Avenue via private street "A", while a secondary entrance to the development is provided from Chieftain Street via private street "F". The provided street intersection off-set at the Serene Avenue and private street "A" is 83 feet, while the intersection off-set at Chieftain Street and private street "E" is 73, necessitating a waiver of development standards request. Four foot wide sidewalks are located on both sides of each entrance to the residential development. The north/south and east/west private streets do not feature sidewalks as all units are rear loaded; however, a network of east/west and north/south 4 foot wide pedestrian sidewalks are located immediately adjacent to all units within the development, and as mentioned above, connect to the open space. Five foot wide detached sidewalks are provided along Serene Avenue and Fort Apache Road, while 5 foot wide attached sidewalks are provided adjacent to Meranto Avenue and Chieftain Street. A pedestrian access gate is provided at the southeast corner of the site, between lots 26 and 27, connecting to Fort Apache Road. The general locations where the increase in finished grade will occur are along the lots fronting private street "D" (north/south), private street "G"(east/west), abutting Meranto Avenue to the south, and Fort Apache Road to the east.

Landscaping

The plans depict a 15 foot wide landscape area, with a 5 foot wide detached sidewalk located adjacent to Serene Avenue and Fort Apache Road. Twenty-four inch box trees planted 30 feet on center, including shrubs and groundcover, are located within the aforementioned landscape areas. A 6 foot wide landscape area, with a 5 foot wide attached sidewalk located adjacent to Meranto Avenue and Chieftain Street is also depicted on the plans. Twenty-four inch box trees planted 30 feet on center, including shrubs and groundcover, are located within the aforementioned landscape areas. A landscape area measuring a minimum of 6 feet in width with 24 inch box trees planted 20 feet on center are proposed along the northwest and west property

lines. Twenty-four inch box trees are equitably distributed throughout the interior of the project site, adjacent to sidewalks and private streets.

Elevations

The plans depict 3 plex and 4 plex residential units with 3 elevations. The buildings have a maximum height of 26 feet and feature pitched, concrete tile roofs. All units feature consistent and unified architecture throughout the exterior design of the buildings. The exterior building materials generally consist of stucco with horizontal and vertical articulation depicted on all elevations, including pop-outs. Decorative window variations and trimming are also featured on all elevations. Color variations have been incorporated into the overall design of garage doors facing the private streets. The residential buildings consist of neutral, earth tone colors.

Floor Plans

The plans depict 2 story homes with floor plans ranging between 1,319 square feet and 1,417 square feet. The floor plans feature 3 bedrooms, kitchen, living room, dining room, closets, laundry room, and 2 bathrooms. Each unit features a 435 square foot 2 car garage.

Signage

The plans depict two, 5 foot high project identification signs measuring 65 square feet in area located at the entrances to the development along Serene Avenue and Chieftain Street. The signs are set back a minimum of 2 feet from the respective property lines, per Code requirements. The signs are constructed of stone veneer, with backlit stainless steel letters.

Applicant's Justification

The applicant states the minimum setback is zero feet to conservatively account for the setback of residential units from adjacent sidewalks. More often, the setback is 5 feet to match the proposed driveway length on all units. The 5 foot driveway length is suitable for the low speed limit and reduced width of private streets.

The proposed roadway is the minimum width that the utility agencies are willing to accept maintenance authority over. In addition, the private roadways have sufficient width and depth to convey the impacting stormwater flow while maintaining flood protection of the residential structures.

The on-site private streets serve as the primary storm runoff conveyance system for the proposed development. As such, the inverted crown allows for an increase in the roadway drainage capacity while providing adequate utility cover. The flush curb/zero curb is limited to the rear-loaded complexes proposed in the center of the site.

The proposed driveway setback from the side property line is 2.5 feet. Due to the compact design of the attached housing product, as it includes side entry paths and open space elements, it is not feasible to design the driveways to incorporate a 6 foot minimum setback from the side property line due to a decrease in open space provided within the site, which will diminish the community's visual appeal and amenities.

The intersection off-set lengths are considered acceptable as the proposed development is non-gated and both streets "A" and "E" meet the minimum 37 foot wide right-of-way width requirement. The off-set street intersection request is consistent with similar residential developments and no queueing issues are anticipated.

Along the stubs at the ends of the proposed private roadways, a minimum 10 foot radius back of curb is proposed and is acceptable since the fire lane does not pass through these road stub-outs. Three foot radii back of curbs are proposed at the stubbed corners of the project site adjacent to all parking bays to provide homeowners with heightened safety measures by creating a larger setback distance from the drive aisle. The smaller back of curb radii encourages lower vehicular speed within the development, which promotes pedestrian safety.

The proposed development requires an increase in finished grade to direct stormwater runoff around habitable structures, provide adequate flood protection, and provide sufficient fall across the development for the proposed sewer connection into Serene Avenue.

The proposed development is compatible with adjacent uses in terms of scale, site design, and operating characteristics. The subdivision will provide workforce housing, which fulfills the County's goal of providing in-fill development near existing infrastructure. The development also fully improves the last remaining undeveloped stretch of Eldorado Lane in the area. No significant adverse impacts to the existing natural environment or adjacent residential developments are anticipated.

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Commercial General	C-2	Undeveloped
South	Residential High (8 du/ac to 18 du/ac)	RUD	Undeveloped
East	Residential Medium (3 du/ac to 14 du/ac)	RUD	Single family residential
West	Commercial General & Residential Suburban (up to 8 du/ac)	R-E & 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-21-0304	A request to vacate and abandon patent easements is a companion item on this agenda.
TM-21-500096	A tentative map consisting of 93 attached single family residential lots on 7.6 acres is a companion item on this agenda.

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

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

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

The applicant indicates the proposed residential RUD zoning conforms with the residential development in the area whereas the current planned land use of APN 176-19-701-004 is not compliant with the residential nature of the surrounding neighborhood. The proposed planned unit development single family attached subdivision offers the opportunity to provide greater diversification of housing types while also fulfilling the greater need for attainable housing.

To the north of the project site is an undeveloped parcel zoned C-2 with a planned land use of Commercial General. To the east of the project site, across Fort Apache Road, is an existing single family residential development zoned RUD with a planned land use of Residential Medium. The residences in this subdivision were constructed in 2008. To the south of the proposed development, across Meranto Avenue, is a previously approved planned unit development (ZC-19-0534) zoned R-3 with a planned land use of Residential High. To the west of the site is an undeveloped parcel zoned R-E with a planned land use of Residential Suburban. Also to the west of the proposed development is an existing single family residential development zoned R-2 with a planned land use of Commercial General. The trend in this area is for additional residential development and less commercial development. The proposed zone change to RUD for single family residential development is consistent and compatible with existing and approved development in this area and is appropriate for this location.

2. *The density and intensity of the uses allowed by the nonconforming zoning is compatible with the existing and planned land uses in the surrounding area.*

The applicant states the existing adjacent land uses comply with the project's proposed RUD density of up to 16 dwelling units per gross acre. The existing R-2 zoning of the subdivision adjacent to the proposed project provides a density of 8 dwelling units per acre, while the planned residential suburban land use of the BLM parcel just south of the residential development also promotes medium density residential development with a maximum density of 8 dwelling units per acre. In addition, the proposed RUD rezoning is harmonious with the current RUD zoning of the adjacent residential subdivision to the east of the site; therefore, the density

proposed by the site serves as a median between the adjacent residential land uses and conforms with the surrounding area.

Immediately to the north of the project site is an undeveloped 2.6 acre parcel zoned C-2 with a planned land use of Commercial General. To the east of the proposed development is an existing single family residential subdivision zoned RUD at 12.1 dwelling units per acre. To the south of the project site is a previously approved planned unit development consisting of townhouses zoned R-3 at 10.6 dwelling units per acre. To the west of the site is a 2.5 acre undeveloped parcel zoned R-E with a planned land use of Residential Suburban. Also to the west of the site is an existing single family residential development zoned R-2 at 8 dwelling units per acre. Therefore, staff finds the density and intensity of the proposed project, a single family residential development with a density of 12.4 dwelling units per acre, is compatible with the existing 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.*

The applicant states no substantial adverse effects are anticipated for any of the criterion's mentioned facilities. Due to the in-fill nature of the subject site, the proposed development will improve both vehicular and pedestrian connectivity with the surrounding area by completing half-street improvements along the perimeter roadways. Regarding drainage conveyance, continuing construction of the existing storm drain in Fort Apache Road to the planned intersection of Meranto Avenue and Chieftain Street will improve current conditions. When compared with larger surrounding subdivisions, the parcel area and lot count for the subject site has negligible impact on the surrounding public facilities.

There has been no indication from service providers that this request will have an adverse or substantial effect on public facilities and services. The school district has indicated that this development would generate 15 additional elementary school, 9 middle school, and 12 high school students. The school district indicates Thompson Elementary School is under capacity by 441 students. Faiss Middle School and Sierra Vista High School are over capacity by 171 and 136 students, respectively.

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

According to the applicant, the nonconforming zone boundary amendment complies with the goals and policies of the Comprehensive Master Plan as the development proposal protects and promotes the health, safety, morals, and general welfare of the public. While improving the infrastructure to provide greater safety, the proposed development also provides lower and middle income workforce housing opportunities to an increasing number of cost burdened households. In addition, per the previous intent of the Land Use Plan, revising the land use of the overall Enterprise area to accommodate higher density housing is conducive to single family attached development, thus also fulfilling Clark County's desire to provide more affordable housing.

This project complies with Goal 7 of the Comprehensive Master Plan to provide housing alternatives to meet a range of lifestyle choices, ages, and affordability levels. There are existing residential developments in this area that are developed with densities ranging from 8 dwelling units per acre to 12.1 dwelling units per acre. The proposed project is a single family residential development with a density of 12.4 dwelling units per acre, which is a transition between these existing developments. Staff finds the project complies with Urban Specific Policy 4 of the Comprehensive Master Plan, which promotes the preservation of existing residential neighborhoods by encouraging vacant lots within this area to develop at similar densities as the existing area.

Summary

Zone Change

Staff finds that there is a trend changing the character and condition of the area, which makes this request appropriate. The density and intensity of the proposed project are consistent and compatible with existing and planned developments in this area. There has been no indication that the proposed project will have an adverse effect on public services or facilities in this area. The proposed project complies with other goals and policies within the Comprehensive Master Plan. Staff finds the applicant has provided a Compelling Justification to warrant approval of the nonconforming zone boundary request.

Use Permit

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

A planned unit development (PUD) is intended to maximize flexibility and innovation in residential development by utilizing area sensitive site planning and design to achieve a desirable mixture of compatible land use patterns that include efficient pedestrian and vehicular traffic systems, streetscapes, and enhance residential amenities. The design of the project is not a typical single family residential development; however, the standards for planned unit developments allow flexibility in design to provide for innovative and unique development options. The design is unique and innovative in that it allows for individual home ownership rather than a rental option of an apartment unit or the ownership of airspace like the typical condominium development. To mitigate the impact of the proposed structures, the buildings are designed with variations in height, roof pitch, and other architectural enhancements. Staff finds the proposed development provides an appropriate land use transition to the existing residential development and commercial land uses within the immediate area; therefore, recommends approval.

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 requested setback reduction to zero feet is significant; however, the request is necessary to take into account the setbacks of the residential buildings to the internal sidewalks within the development. The typical residential building setback from a private street is 5 feet, to accommodate the proposed driveway length. Staff finds the request should have minimal to no impact on the overall development of the site; therefore, recommends approval.

Design Reviews #1 & #2

Urban Specific Policy 7 of the Comprehensive Master Plan states land uses that are complementary and are of similar scale and intensity should provide appropriate connectivity and not be segregated. The proposed development complies with the aforementioned policy as multiple points of connection are proposed from the interior of the development to the adjacent streets, including Serene Avenue and Chieftain Street. Furthermore, gated pedestrian access is provided at the southeast corner of the site, adjacent to Fort Apache Road. Staff finds a variety of design elements are utilized on all sides of the residential buildings, including articulating building facades. The design of the proposed elevations incorporate varying rooflines, exterior building materials such as stucco and stone veneer, decorative window trimming, and decorative wrought iron railings. The site will be developed at 12.4 dwelling units per acre, which staff believes is an appropriate density. The design of the residential buildings are consistent and compatible with the existing and approved residential developments within the surrounding area; however, staff is concerned with the 10 foot setback between lot 49 and the single family residences immediately to the west. The adjacent R-2 single family residential development to the west of the project site requires a 15 foot rear yard setback, which increases the distance between the proposed townhouse and the existing residence to 25 feet. While the 3 to 1 height setback ratio does not apply to adjacent single family residential developments; staff recommends eliminating lot 49 and replacing the townhouse with an open space area vastly improving the buffer area between the 2 residential developments. Furthermore, the elimination of lot 49 would create additional usable open space at the northwest corner of the development. The proposed project identification sign is consistent and compatible with the architecture and building materials utilized for the townhouse units; therefore, staff can support the design review requests.

Public Works - Development Review

Waiver of Development Standards #2

Staff has no objection to the reduction in the street intersection off-set between Chieftan Street and Street "F". This request is common with townhouse subdivisions. Additional common elements are provided, improving visibility and reducing conflicts while trying to enter the site.

Waiver of Development Standards #3

Staff has no objection to the request to reduce the width of the private streets provided that Fire Prevention approves the request.

Waiver of Development Standards #4
Staff has no objection to the request to reduce the back of curb radius on the private streets provided that Fire Prevention approves the request.

Waiver of Development Standards #5
Staff has no objection to allowing an flush/zero curb with an inverted crown on the private streets within the proposed subdivision. The applicant must show and provide evidence that this request will not be detrimental to the subdivision.

Waiver of Development Standards #6
Staff has no objection to the reduction in the distance from the driveway to the property line. The applicant provided open space to act as a buffer between each of the unit blocks to minimize hazards for drivers traveling through the site and exiting their garages.

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.

Staff Recommendation
Approval. This item has been forwarded to the Board of County Commissioners for final action.

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

PLANNING COMMISSION ACTION: August 3, 2021 – APPROVED – Vote: Unanimous
Current Planning

- Resolution of Intent to complete in 4 years;
- Provide intense landscaping along west side of Lot 49;
- Terrace retaining walls with landscaping in between for walls over 9 feet adjacent to public right-of-ways;
- Pathway lighting to be installed along interior walkways;
- 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;
- Right-of-way dedication to include 45 feet to the back of curb for Fort Apache Road, 35 feet to the back of curb for Serene Avenue, 30 feet for Meranto Avenue, 30 feet for Chieftan Street, and associated spandrels;
- 30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements for any collector street or larger;
- 90 days to record required right-of-way dedications and any corresponding easements for any collector street or larger;
- All other right-of-way and easement dedications to record with the final map;
- Applicant shall apply for a Bureau of Land Management (BLM) grant for Chieftan Street.
- Applicant is advised that the installation of detached sidewalks will require dedication to back of curb and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control; and that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email sewerlocation@cleanwaterteam.com and reference POC Tracking #0128-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

TAB/CAC: Enterprise - approval (terrace retaining walls with landscaping in between for walls over 9 feet adjacent to public right-of-ways; pathway lighting to be installed along interior walkways).

APPROVALS:

PROTESTS: 13 cards, 12 letters

APPLICANT: D.R. HORTON

CONTACT: STRIVE ENGINEERING, 8912 SPANISH RIDGE AVENUE, SUITE 200, LAS VEGAS, NV 89148

Department of Comprehensive Planning

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

Nancy A. Amundsen, Director

NOTICE OF FINAL ACTION

August 30, 2021

STRIVE ENGINEERING
8912 SPANISH RIDGE AVENUE, SUITE 200
LAS VEGAS, NV 89148

REFERENCE: NZC-21-0303

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

The above referenced application was presented before the Clark County Board of County Commissioners at their regular meeting of **August 18, 2021** and was **APPROVED** subject to the conditions listed below. You will be required to comply with all conditions prior to the issuance of a building permit or a business license, whichever occurs first.

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

CONDITIONS OF APPROVAL -
Current Planning

- **Resolution of Intent to complete in 4 years;**
- **Provide intense landscaping along west side of Lot 49;**
- **Terrace retaining walls with landscaping in between for walls over 9 feet adjacent to public right-of-ways;**
- **Pathway lighting to be installed along interior walkways;**
- **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.**

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

Department of Comprehensive Planning

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Nancy A. Amundsen, Director

Public Works - Development Review

- **Drainage study and compliance;**
- **Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;**
- **Traffic study and compliance;**
- **Full off-site improvements;**
- **Right-of-way dedication to include 45 feet to the back of curb for Fort Apache Road, 35 feet to the back of curb for Serene Avenue, 30 feet for Meranto Avenue, 30 feet for Chieftan Street, and associated spandrels;**
- **30 days to submit a Separate Document to the Map Team for the required right-of-way dedications and any corresponding easements for any collector street or larger;**
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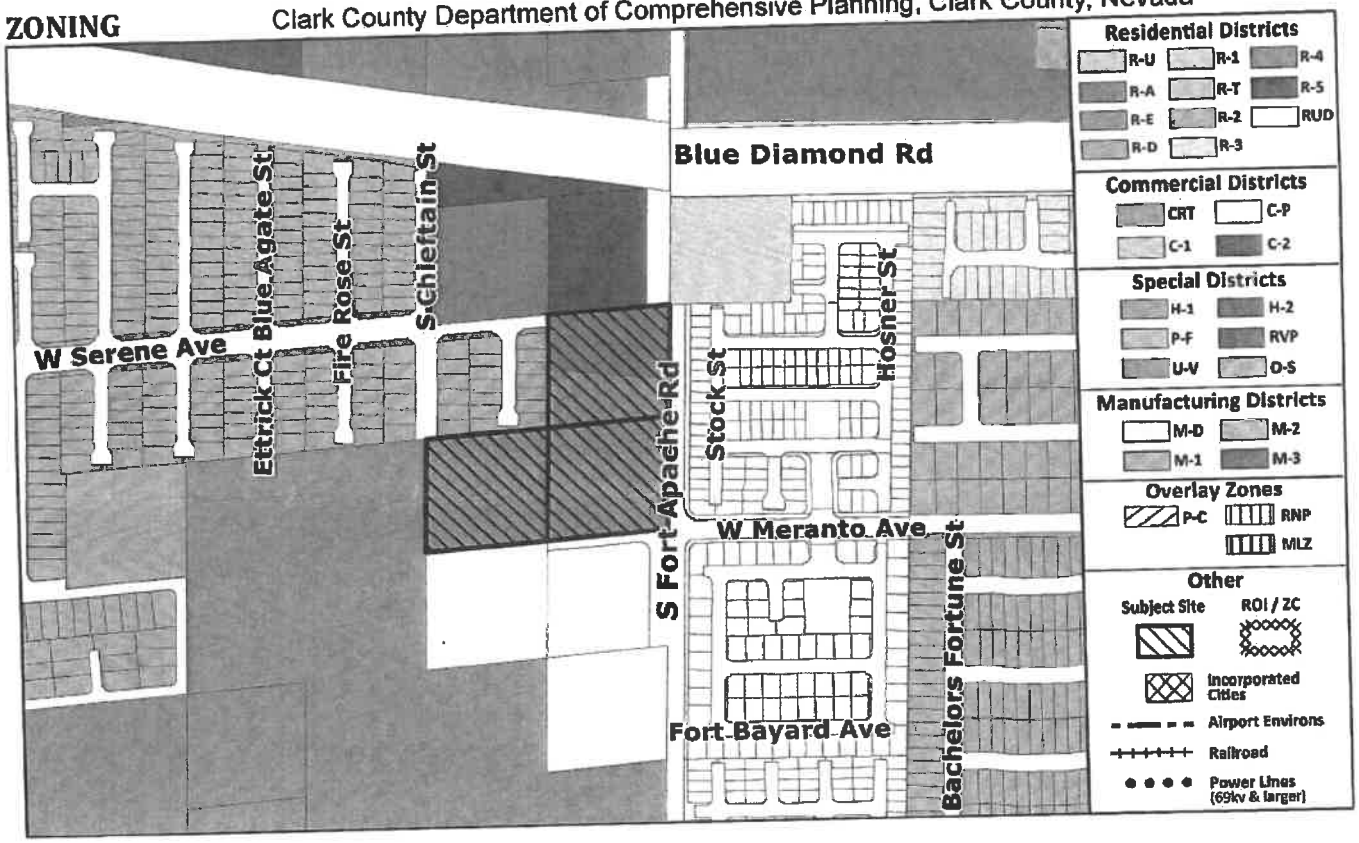
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Commission Agenda Map

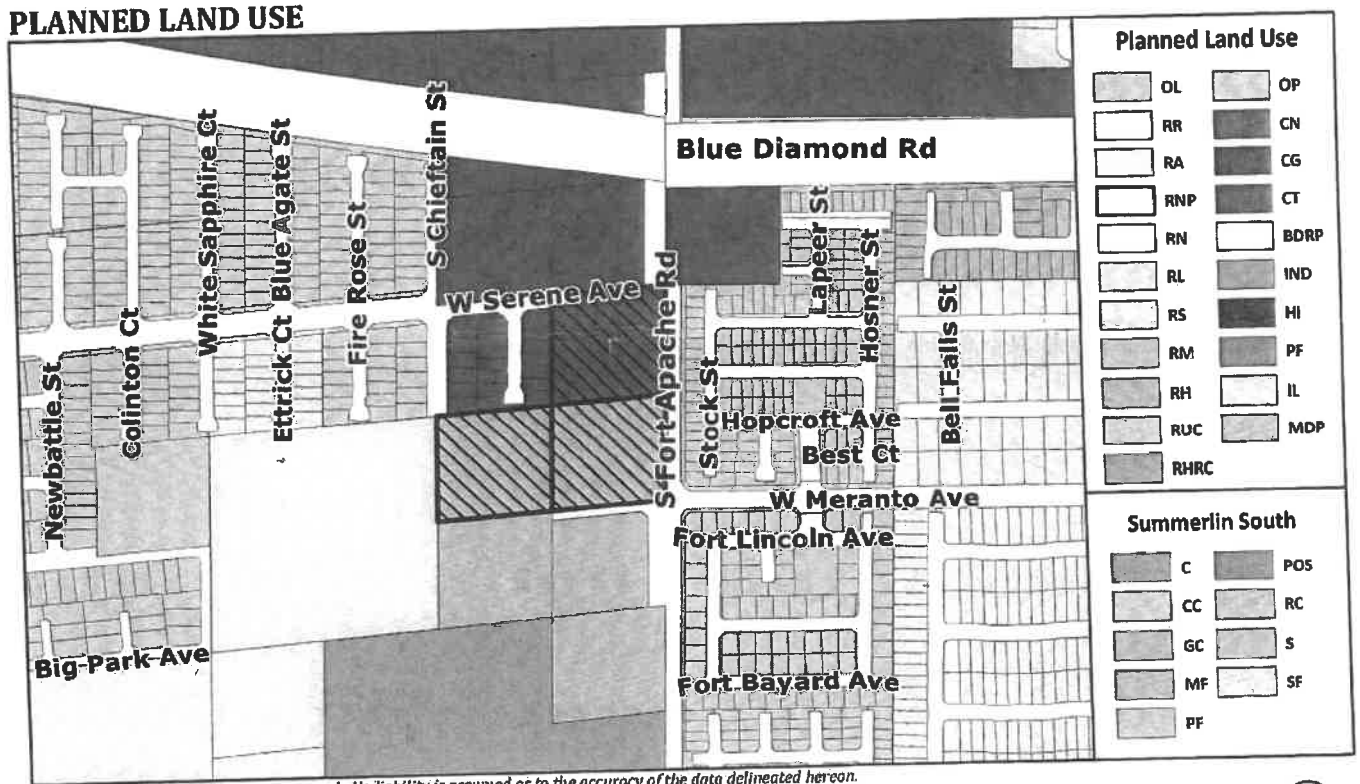
NZC-21-0303

Clark County Department of Comprehensive Planning, Clark County, Nevada

ZONING



PLANNED LAND USE



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

Subject Parcel(s)

17619701007
17619701008
17619701004

0 125 250 500 Feet

Map Created on 6/17/2021