

CONVENIENCE STORE  
(TITLE 30)

HUALAPAI WY/SERENE AVE

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**NZC-22-0385-BECKER ERNEST A IV & KATHLEEN C FAMILY TRUST & BECKER ERNEST A IV & KATHLEEN C TRS:**

**ZONE CHANGE** to reclassify 1.5 acres from an R-E (Rural Estates Residential) Zone to a C-1 (Local Business) Zone.

**USE PERMITS** for the following: **1)** convenience store; **2)** reduced separation from a convenience store to a residential use; **3)** gasoline station; and **4)** reduced separation from a gasoline station to a residential use.

**WAIVER OF DEVELOPMENT STANDARDS** to allow modified driveway design.

**DESIGN REVIEWS** for the following: **1)** convenience store with gasoline sales; and **2)** finished grade.

Generally located on the east side of Hualapai Way and the north side of Serene Avenue within Enterprise (description on file). JJ/rk/jo (For possible action)

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RELATED INFORMATION:

**APN:**

176-19-201-015

**USE PERMITS:**

1. Allow a convenience store in a C-1 zone per Table 30.44-1.
2.
  - a. Reduce the separation from a convenience store to a residential use to the east to 10 feet where 200 feet is required per Table 30.44-1 (a 95% reduction).
  - b. Reduce the separation from a convenience store to a residential use to the north to 17 feet where 200 feet is required per Table 30.44-1 (a 92% reduction).
3. Allow a gasoline station in a C-1 zone per Table 30.44-1.
4.
  - a. Reduce the separation from a gasoline station to a residential use to the east to 37 feet where 200 feet is required per Table 30.44-1 (an 82% reduction).
  - b. Reduce the separation from a gasoline station to a residential use to the north to 131 feet where 200 feet is required per Table 30.44-1 (an 35% reduction).

**WAIVER OF DEVELOPMENT STANDARDS:**

1.
  - a. Reduce the approach distance from a driveway to an intersection along Serene Avenue to 50 feet where 150 feet is the minimum per Uniform Standard Drawing 222.1 (a 66% reduction).

- b. Reduce the departure distance from an intersection to a driveway along Hualapai Way to 110 feet where 190 feet is the minimum per Uniform Standard Drawing 222.1 (a 42% reduction).
- c. Reduce the approach distance from a driveway to an intersection along Hualapai Way to 119 feet where 150 feet is the minimum per Uniform Standard Drawing 222.1 (a 21% reduction).
- d. Reduce throat depth for the driveway along Hualapai Way to a minimum of 10 feet where 25 feet is the standard per Uniform Standard Drawing 222.1 (a 60% reduction).

#### **DESIGN REVIEWS:**

1. Convenience store with gasoline sales.
2. Increase finished grade to 48 inches (4 feet) where a maximum of 36 inches (3 feet) is the standard per Section 30.32.040 (a 33% increase).

#### **LAND USE PLAN:**

ENTERPRISE - MID-INTENSITY SUBURBAN NEIGHBORHOOD (UP TO 8 DU/AC)

#### **BACKGROUND:**

##### **Project Description**

##### General Summary

- Site Address: N/A
- Site Acreage: 1.5
- Project Type: Convenience store with gasoline sales
- Number of Stories: 1
- Building Height (feet): Up to 28
- Square Feet: 4,106
- Parking Required/Provided: 17/20

##### **Neighborhood Meeting Summary**

The applicant conducted a neighborhood meeting at the Windmill Library on December 23, 2021, as required by the nonconforming amendment process, prior to formal filing of this application. All owners within 1,500 feet of the project site were notified about the meeting. There were 2 attendees present at the open house meeting for this project. The attendees had concerns about traffic, visual impacts, and general incompatibility of the project with the residential area.

##### Site Plans

The plans depict a proposed development consisting of convenience store and gas station. The convenience store is located near the northeast portion of the site, with the gasoline canopy located just south of the convenience store near the central portion of the property. To the east and north are developing single family residential lots. The building is set back 10 feet from east property line and 17 feet from the north property line. A total of 20 parking spaces are distributed throughout the site. Access to the proposed development is from Hualapai Way and Serene Avenue. This request also includes several waivers for approach and departure distances, throat depth, and residential separation.

Landscaping

Street landscaping consists of a 15 foot wide landscape area with a detached sidewalk along Hualapai Way, and an approximate 15 foot wide landscape area behind an attached sidewalk is shown along Serene Avenue. A 10 foot wide intense landscape buffer which includes a double row of off-set trees is shown on the east and north sides of the convenience store building, with the remaining areas having a single row of trees and groundcover that are 20 feet apart. Interior to the site, landscaping is distributed throughout the parking lot and around portions of the building footprint.

Elevations

The building is 1 story, up to 28 feet high, consisting of colored stucco, decorative cornice molding, metal canopies, and aluminum storefront window system. The height of the building varies slightly from 22 feet to 28 feet and has been designed to break-up the roofline and enhance the overall look of the building. The gasoline canopy is approximately 23 feet high and will have similar materials and design as the convenience store.

Floor Plans

The convenience store has an area of 4,106 square feet consisting of customer service areas, sales floor, gaming area, storage areas, restrooms, and an office.

Signage

Signage is not a part of this request.

Applicant’s Justification

The applicant indicates the C-1 zoning request is appropriate at the intersection of 2 major roads (Hualapai Way and Serene Avenue) making the request suitable for a neighborhood commercial use. The applicant believes that the proposed zone change will benefit the development of this area because it supports the Countywide Policy 1.3.3 which in summary states to encourage integration of daily needs services adjacent to new neighborhoods to minimize the need for longer vehicle trips. Furthermore, the waivers associated with this application are due to the narrowness of the site. The site has been configured in the best possible way to fit the proposed uses on the property.

**Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
LUP-20-700092	Redesignated the planned land use category from RS (Residential Suburban) to CG (Commercial General)	Cancelled by BCC	July 2020

**Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	Mid-Intensity Suburban Neighborhood (up to 8 du/ac) & Public Use	R-2	Subdivided single family residential

### Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
South	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-2	Single family residential
East	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-2	Subdivided single family residential
West	Open Lands	R-U	Undeveloped

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

### STANDARDS FOR APPROVAL:

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

### Analysis

#### Current Planning

##### Zone Change

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

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

The applicant indicates that when the prior land use plan update was considered for approval (2020), the applicant appeared and requested General Commercial land use on the property. But during the open house events and town board meetings, the property owner agreed to be downgraded to Neighborhood Commercial use, equivalent to the C-1 zoning now being sought. Subsequently, the County Commission halted the overall land use plan update due to the pandemic. However, staff disagrees with the assessment that Neighborhood Commercial uses are appropriate on a property that is only 1.5 acres, and which is surrounded by rural open lands to the west and developing R-2 zoned subdivisions to the north and east. Additionally, staff finds there are multiple undeveloped properties planned for Neighborhood Commercial and commercial Corridor Mixed-Use along Blue Diamond Road to the north to accommodate the needs of this business. Therefore, staff finds that there has been no change in law, policies, trends, or facts that have substantially changed the character or condition of the immediate area.

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

The applicant indicates most of the design elements and landscape buffers of this project will be harmonious with the existing development in the area and will mitigate any impacts to the surrounding properties. However, staff finds the land use context of the entire area on the east side of Hualapai Way is already zoned R-2 and has existing or developing single family residences. Staff finds the request to zone an isolated parcel in the middle of an area that has

developed with residential uses inappropriate since the proposed development may be incompatible with surrounding homes and favors a particular owner.

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 utility purveyors that the proposed nonconforming zone change will have a negative impact on public services or infrastructure.

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

The applicant indicates this project will contribute towards the provision of necessary public infrastructure in accordance with the Southwest Valley Public Facilities Needs Assessment and maintain existing rights-of-way and plan for the extension of rights-of-way needed for this project. Staff finds the isolated location of the requested C-1 zoning, in relation to the surrounding zoning districts, is not compatible with the existing land uses. For example, Policy 1.4.4 encourages in-fill development that is compatible with the scale and intensity of the surrounding area. Here, C-1 zoning would allow a convenience store and gasoline station that is not compatible with the scale and intensity of existing and future single family residences surrounding this site. Furthermore, Policy 6.2.3 encourages appropriate transitions for character of development and neighborhood compatibility. Here, this site is an isolated commercial parcel in the middle of an area that has developed with single family residences. As a result, the nonconforming zone boundary amendment does not comply with applicable policies in the Master Plan.

## **Summary**

### Zone Change

Staff finds that there has not been a change in law and policies that make this request appropriate for the area. The reclassification of this site to a C-1 zoning district for the proposed project would allow potentially incompatible uses with the developed R-2 zoning districts to the east and north. Staff finds that the proposed request does not satisfy all the requirements of a compelling justification to warrant approval of the nonconforming zone boundary amendment to C-1 zoning; therefore, staff recommends denial.

### Use Permits and Design Review #1

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 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 minimum separation of 200 feet between convenience store/gasoline station and residential use is necessary to help mitigate negative impacts from noise, odor, other nuisances, and to air quality. A convenience store and gasoline station are permitted in the C-1 zoning district subject to acquiring the approval of a use permit and complying with conditions. The proposed uses are

separated from the developing residential uses by a minimum of 10 feet. The site is too small for this intense of a use which is surrounded by single family residential lots, on two sides. Furthermore, approval of the use permit is contingent upon approval of the nonconforming zone change and design review which staff cannot support; therefore, staff cannot support these requests.

#### 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.

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

##### Waiver of Development Standards #1a

Staff cannot support any driveway on Serene Avenue as the site is too small to accommodate a driveway that would be safe for the public. The site can be designed to take advantage of a single driveway on Hualapai Way.

##### Waiver of Development Standards #1b, #1c, and #1d

Staff cannot support the location and throat depth for the Hualapai Way driveway. While it is not possible to meet both the minimum approach and departure distances, a site redesign needs to be considered. With minimal throat depth due to a loading space that will be difficult to access, parking spaces, and the open area around the gas pumps, staff finds that driver confusion and obstructions will result in conflicts, causing potential collisions in the right-of-way.

##### Design Review #2

This design review represents the maximum grade difference within the boundary of this application. This information is based on preliminary data to set the worst case scenario. Staff will continue to evaluate the site through the technical studies required for this application. Approval of this application will not prevent staff from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approval. However, since staff does not support the rest of the application, staff cannot support this request.

#### **Staff Recommendation**

Denial. This item will be forwarded to the Board of County Commissioners' meeting for final action on October 4, 2022 at 1:00 p.m., unless otherwise announced.

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

## **PRELIMINARY STAFF CONDITIONS:**

### **Current Planning**

If approved:

- 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 installation and use of cooling systems that consumptively use water are prohibited; 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 35 feet to the back of curb for Hualapai Way, 40 feet for Serene Avenue, and associated spandrel;
- Vacate any unnecessary rights-of-way and easements.
- Applicant is advised 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; 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 signs, structures, utility poles, and landscaping shall not encroach into public right-of-way, easements, or sight-visibility zones.

### **Fire Prevention Bureau**

- No comment.

### **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 #0332-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:**  
**APPROVALS:**  
**PROTESTS:**

**APPLICANT:** ERNEST A. BECKER INVESTMENT COMPANY

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