

COMMERCIAL DEVELOPMENT
(TITLE 30)

PEBBLE RD/FORT APACHE RD

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

NZC-23-0110-EPSTEIN, DIANE LEE R. FAM TR:

ZONE CHANGE to reclassify 1.8 acres from an R-E (Rural Estates Residential) Zone to a C-2 (General Commercial) Zone.

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

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** allow a drive-thru talk box to face residential development; and **2)** allow modified street standards.

DESIGN REVIEWS for the following: **1)** tavern; **2)** convenience store; **3)** gasoline station (fueling canopy); **4)** restaurant with drive-thru; and **5)** finished grade.

Generally located on the south side of Pebble Road and the east side of Fort Apache Road within Enterprise (description on file). JJ/md/syp (For possible action)

RELATED INFORMATION:

APN:

176-20-101-001

USE PERMITS:

1. Reduce the separation from a convenience store to a residential use to 70 feet where a minimum of 200 feet is required per Table 30.44-1 (a 65% reduction).
2. Reduce the setback from a gasoline station (fueling canopy) to a residential use to 172 feet where a minimum of 200 feet is required per Table 30.44-1 (a 14% reduction).
3. Reduce the separation from a tavern to a residential use to 185 feet where a minimum separation of 200 feet is required per Table 30.44-1 (a 7.5% reduction).

WAIVERS OF DEVELOPMENT STANDARDS:

1. Allow a drive-thru talk box to face residential development where talk boxes shall be set back behind the building or face to minimize noise away from adjacent homes per Table 30.56-2.
2. Reduce the departure distance from the intersection of Fort Apache Road and Pebble Road to 168 feet where a minimum of 190 feet is required per Uniform Standard Drawing 222.1 (an 11.6% reduction).

DESIGN REVIEWS:

1. Tavern.

2. Convenience store.
3. Gasoline station (fueling canopy).
4. Restaurant with drive-thru.
5. Increase finished grade to 48 inches where a maximum of 36 inches 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: 1.8
- Project Type: Tavern, convenience store, gasoline station, and restaurant with drive-thru
- Number of Stories: 1
- Building Height (feet): 20 (tavern, convenience store, and restaurant with drive-thru)/19 (fueling canopy)
- Square Feet: 4,250 (tavern)/3,500 (convenience store)/1,500 (restaurant with drive-thru)
- Parking Required/Provided: 72/72

Neighborhood Meeting Summary

This is a request for a nonconforming zone change to reclassify 1.8 acres from an R-E zoning district to a C-2 zoning district for a commercial development. The applicant conducted a neighborhood meeting on September 6, 2022, as required by the nonconforming zone boundary amendment process. The required meeting notices were mailed to the neighboring property owners within 1,500 feet of the project site. Seven neighbors were in attendance and expressed the following concerns: 1) traffic congestion; 2) too many gasoline stations in the area; 3) health hazards with having a gasoline station in proximity to residential development; 4) light pollution; 5) noise generated from the drive-thru talk box; and 6) landscape buffer on the east side of the property may attract transient persons. The consensus from the neighbors was that they wish to see the site remain residential rather than any sort of commercial use.

Site Plans

The plans depict a proposed commercial development consisting of 3 buildings, which include the following: 1) a tavern, located at the northwest corner of the site, adjacent to Pebble Road and Fort Apache Road; 2) a gasoline station (fueling canopy), centrally located within the site and to the west of the convenience store; and 3) a convenience store and restaurant with a drive-thru located on the east side of the site.

Below is a table reflecting the building setbacks from the north, south, east, and west property lines of the site.

Building Setback from Property Lines (in feet)				
Building:	Property Line			
	North	East	South	West
Tavern	10	203	185	15
Gasoline Station	92	172	76	81
Convenience Store	128	70	66	171
Restaurant	93	70	145	171

Use permits are required to reduce the separation from the tavern, convenience store, and the gasoline station to the existing residential development to the east and the residential use to the south of the project site. The convenience store and restaurant with drive-thru consist of a single building. The convenience store and restaurant occupy the south and north portions of the building, respectively. The restaurant features a single, drive-thru lane measuring 11 feet in width that is located along the east side of the building. A drive-thru talk box is located immediately to the west of the drive-thru lane, necessitating a waiver of development standards as the talk box faces towards the existing residential development. The drive-thru lane exits into a two-way vehicle drive aisle measuring 24 feet in width. The commercial development requires 72 parking spaces where 72 parking spaces are provided. Access to the development is granted via a single commercial driveway along Fort Apache Road at the southwest corner of the site. A second commercial driveway is located at the northeast corner of the site, adjacent to Pebble Road, requiring a waiver of development standards reducing the departure distance from the intersection of Fort Apache Road. The increase to finished grade will occur along the east portion of the site, in proximity to the convenience store and restaurant building.

Landscaping

The plans depict a 15 foot wide landscape area, including a 5 foot wide detached sidewalk, along Fort Apache Road and Pebble Road. The street landscape area consists of trees, shrubs, and groundcover. A 10 foot wide landscape buffer, consisting of large Evergreen trees, is located along the east and south property lines adjacent to the existing and planned single family residential uses. A 5 foot wide landscape planter island extending the length of the convenience store and restaurant building, is located immediately to the west of the restaurant drive-thru lane. Seven trees will be planted within this landscape planter island. Parking lot landscaping is equitably distributed throughout the interior of the commercial development.

Elevations

The plans depict a proposed tavern with a height ranging from 17 feet to 20 feet to the top of the parapet wall. Varying rooflines have been incorporated into the overall design of the tavern. The building consists of a stucco exterior with an aluminum storefront window system. A decorative metal awning is located over the front entrance to the building (east elevation).

The convenience store and restaurant building measures between 17 feet to 20 feet in height to the top of the parapet wall. Varying rooflines have been incorporated into the overall design of the building. The west elevation (front entrance) of the building consists of a stucco exterior

with an aluminum storefront window system. A decorative metal awning is located above the entrance to the convenience store and restaurant. The restaurant drive-thru window is located on the east side of the building, oriented towards the existing residential development. All rooftop mounted equipment will be screened from the right-of-way and public view by parapet walls. All buildings will be painted with neutral colors, consisting of gray and blue.

The gasoline station (fueling canopy) measures 19 feet in height with decorative stone veneer embellishments located at the base of the supporting columns. The metal canopy and supporting columns will be painted with blue and gray stucco, matching the color of the buildings within the development.

Floor Plans

The plans depict a tavern consisting of 4,250 square feet featuring a bar, dining, and kitchen area. The convenience store measures 3,500 square feet in area consisting of a general merchandise area, coolers, restrooms, and manager’s office. The restaurant with drive-thru consists of an open shell space.

Signage

Signage is not a part of this request.

Applicant’s Justification

The applicant states the proposed convenience store and gasoline station serve an important need for the community by providing easy access to essential goods and services and it is not believed that these uses will generate significant noise, pollution, or other types of nuisances that would negatively impact the quality of life for nearby residents. The gasoline station is separated from the existing developed residential homes to the east with the convenience store building and landscape buffers. According to the applicant, due to the available space for the drive-thru window being limited, it is not possible to orient the talk box away from adjacent homes. The talk box is located 68 feet from the east property line and landscaping elements have been included to aid in noise mitigation. In addition to the landscape buffer along the east property line, landscaping will be provided adjacent to the talk box and in a 5 feet wide median island between the drive-thru and the residential property line. The applicant states they are unable to comply with the departure distance requirement due to an existing NV Energy transformer being located at the east boundary preventing the driveway from being located any further from the intersection. Similar reductions have been approved throughout Clark County and it is not believed that this reduction will have an adverse effect on traffic flow at this location. The excess fill is needed to ensure adequate drainage of the site. We expect the impact on the adjacent properties to be negligible. The exact amount of fill will not be set until the drainage study approval is received, efforts to minimize any fill will be taken and the site only elevated to meet drainage Code requirements.

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Mid-Intensity Suburban Neighborhood (up to 8 du/ac); Compact Neighborhood (up to 18 du/ac); & Open Lands	R-E	Undeveloped

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
South	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-E	Undeveloped
East	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-2	Single family residential
West	Corridor Mixed-Use	C-2	Undeveloped

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

Related Applications

Application Number	Request
VS-23-0111	A request to vacate and abandon right-of-way and patent easements 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

Comprehensive 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 states that following the adoption of the Master Plan, the planned land use for this area was changed to Mid-Intensity Suburban Neighborhood (MN). As the character of the neighborhood has changed, properties to the west of the site have also been rezoned as C-2 (General Commercial) to provide future commercial services to the growing number of residential properties. Several planned commercial sites have been developed as residential in the half mile vicinity (APN 176-19-501-005 and southeast corner of Serene Avenue and Chieftain Street), removing possible commercial developments in the area. Both of these 2.5 acre sites were not at the intersection of 2 arterial streets, as is this parcel, making this one of a logical choice for commercial development, where high volumes of traffic exist making vehicle access easy. Public Works is starting construction of full off-site improvements on Fort Apache Road including sidewalk, multiple travel lanes in each direction, and planned underground facilities for future traffic signal at Pebble Road and Fort Apache Road. The applicant believes that the proposed development is compatible with existing developments and is appropriate for the area.

To the west of the project site, across Fort Apache Road, are 4 undeveloped parcels zoned C-2 (ZC-0918-05) with a planned land use of Corridor Mixed-Use. To the north of the site, across Pebble Road, is an undeveloped parcel zoned R-E with planned land uses of Mid-Intensity Suburban Neighborhood, Compact Neighborhood, and Open Lands. To the east of the proposed development is an existing single family residential development zoned R-2 with a planned land use of Mid-Intensity Suburban Neighborhood. To the south of the site is an undeveloped parcel zoned R-E with a planned land use of Mid-Intensity Suburban Neighborhood. While the proposed development is located on the corner of 2 arterial streets, there is 10 acres of undeveloped C-2 zoned property immediately to the west of the site, across Fort Apache Road that has yet to be developed. Staff finds the existing residential uses immediately to the east and south of the site are lower intensity uses than the proposed commercial development. Based on the character of the surrounding area, undeveloped parcels to the north and south that are planned for residential uses, and an existing single family residential development to the east, staff finds the proposed zoning would not be consistent and compatible with the surrounding 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.*

According to the applicant, the proposed project will provide much needed commercial options for an area heavily saturated with existing and proposed residential subdivisions. The intent of a balanced land use plan is to encourage an orderly development pattern with an appropriate spatial distribution of land uses that complement each other. The applicant believes that the proposed zoning district is compatible and appropriate.

The intent of the C-2 (General Commercial) district is to accommodate a full range of commercial uses, or mixed commercial and residential uses, in a manner that can be located to serve the needs of the entire community yet be buffered from having adverse impacts on any adjacent residential neighborhoods. The intent of the district is for sites which are typically greater than 10 acres. The C-2 zoning district is the most intense form of commercial zoning, which permits many uses by right, including minor training facilities, instruction training facilities, tattoo parlors, and the sale of packaged beer, wine, and liquor. Staff finds the requested zoning is premature, and the intensity of the uses associated with the zoning district are not 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 indicates the project is not anticipated to have substantial adverse effects on services and facilities. Additionally, any necessary services and infrastructure are already present in the area.

There has been no indication from various service providers that this request will have a substantial adverse effect on public facilities and services. Various Clark County service departments have reviewed the development proposal based on the information submitted by the

applicant and, based on the comments received from those service providers, the project is not anticipated to have additional impacts on the surrounding infrastructure beyond what would have been anticipated for a commercial development.

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

The applicant states the proposed C-2 (General Commercial) zoning designation is consistent with Policy 1.4.5 of the Master Plan. The subject site acts as a buffer between the existing residential properties to the east and the public right-of-way.

Staff finds the intensity of the proposed commercial development, which includes a tavern, convenience store, and restaurant with drive-thru, is not compatible with the adjacent parcels with existing and planned residential uses.

Summary

Zone Change

Staff finds that there has been no change in law, policies, and trends that makes this request appropriate for the area. A single family residential development with R-2 zoning is located immediately to the east of the project site, while an undeveloped parcel with a planned land use of Mid-Intensity Suburban Neighborhood is located to the south. The reclassification of this site to a C-2 zone would allow the proposed commercial development within a zoning district that is not compatible with the existing and planned residential land uses in the area. The intent of the C-2 zoning district is for sites which are typically greater than 10 acres. The C-2 zoning district is the most intense form of commercial zoning which permits many uses by right, including minor training facilities, instruction training facilities, tattoo parlors, and the sale of packaged beer, wine, and liquor. Staff finds the proposed request does not satisfy all of the requirements of a compelling justification to warrant approval of the nonconforming zone boundary amendment to C-2 zoning. Therefore, staff recommends denial.

Use Permits

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.

The intent of the required 200 feet of separation distance from a convenience store, gasoline station, and tavern to a residential use is to ensure an appropriate buffer is established between the uses to reduce any negative impacts on the residential use. The reduced separation between the convenience store, tavern, and residential use is a result of the site being overbuilt. Goal 3.1 of the Master Plan states the following: "Maintain air quality at a level that protects public health and improves visual clarity." Staff is concerned that reducing the distance between the gasoline station and the existing residential development may have the following impacts: 1) a reduction in air quality through the release of vapors during vehicle fueling; and 2) noise during the evening hours. Although the applicant has increased the required landscaping width from the required 5.5 feet to 10 feet adjacent to the residential uses along the east and south property lines, this request is a self-imposed burden. Therefore, staff recommends denial.

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

Staff is concerned the proximity of the drive-thru talk box, which is set back 68 feet from the east property line, will potentially impact the existing single family residential development. More specifically, the drive-thru talk box may potentially become a nuisance to the adjacent property owners during the evening hours of the restaurant. Staff finds the building can be redesigned orienting the talk box away from the existing residential development. Therefore, staff recommends denial.

Design Reviews #1 through #4

The design of the proposed tavern, convenience store, and restaurant feature variations in building height contributing to breaking-up the mass of commercial buildings. While height, color, and material variations have been incorporated into the design of the buildings, staff finds the requested C-2 zoning is not compatible with the residential uses adjacent to the site. Therefore, since staff does not support the zone change, use permit, and waivers of development standards requests for this project, staff cannot support the design reviews.

Public Works - Development Review

Waiver of Development Standards #2

Staff has no objection to the reduction in the departure distance for the Pebble Road commercial driveway. The applicant placed the driveway as far east as the site will allow. However, since Planning is recommending denial of the application, staff cannot support this waiver.

Design Review #5

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 Planning is recommending denial of the application, staff cannot support this design review.

Staff Recommendation

Denial. This item will be forwarded to the Board of County Commissioners' meeting for final action on June 7, 2023 at 9:00 a.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:

Comprehensive 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 will be 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 Master Plan amendment and a zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Public Works - Development Review

- 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;
- 30 days to coordinate with Public Works - Design Division and to dedicate any necessary right-of-way and easements for the Fort Apache improvement project.
- Applicant is advised that the installation of detached sidewalks will require the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control or execute a License and Maintenance Agreement for non-standard improvements in the right-of-way; and that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.

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 #0110-2023 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

TAB/CAC: Enterprise - denial.

APPROVALS:

PROTESTS:

APPLICANT: UMER MALIK

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