

06/15/21 PC AGENDA SHEET

SINGLE FAMILY RESIDENTIAL DEVELOPMENT  
(TITLE 30)

GARY AVE/DECATUR BLVD

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**NZC-21-0204-DAVID FAX OBER LLC & BUFFALO WING LLC:**

**ZONE CHANGE** to reclassify 16.1 acres from an R-E (Rural Estates Residential) Zone and a C-P (Office and Professional) Zone to an R-2 (Medium Density Residential) Zone.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** waive landscaping to a less intense use; and **2)** increase wall height.

**DESIGN REVIEWS** for the following: **1)** a single family residential development; and **2)** finished grade.

Generally located on the northwest corner of Decatur Boulevard and Gary Avenue within Enterprise (description on file). JJ/al/jd (For possible action)

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RELATED INFORMATION:

**APN:**

176-24-801-003; 176-24-801-004; 176-24-801-006 through 176-24-801-008; 176-24-801-029

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Waive landscaping to a less intense use where landscaping per Figure 30.64-11 and Table 30.64-1 is required.
2. Increase wall height to a maximum of 12 feet (6 foot screen wall with 6 foot retaining wall) where a maximum of 9 feet (6 foot screen wall with a 3 foot retaining wall) is permitted per Section 30.64.050 (a 33.3% increase).

**DESIGN REVIEWS:**

1. A detached single family residential development.
2. Increase finished grade to 36 inches (3 feet) where a maximum of 18 inches (1.5 feet) is the standard per Section 30.32.040 (a 100% increase).

**LAND USE PLAN:**

ENTERPRISE - COMMERCIAL NEIGHBORHOOD

ENTERPRISE - RESIDENTIAL LOW (UP TO 3.5 DU/AC)

ENTERPRISE - RESIDENTIAL SUBURBAN (UP TO 8 DU/AC)

**BACKGROUND:**

**Project Description**

General Summary

- Site Acreage: 16.1

- Number of Lots: 118 residential/14 common elements
- Density (du/ac): 7.3
- Minimum/Maximum Lot Size (square feet): 3,300/7,008
- Project Type: Single family residential development
- Number of Stories: 1 and 2
- Building Height (feet): 29
- Square Feet: 1,203 to 2,469
- Open Space Required/Provided: 0/37,518 square feet

### **Neighborhood Meeting Summary**

This request is for a nonconforming zone change to reclassify approximately 16.1 acres from an R-E zone and a C-P zone to an R-2 zone for a single family residential development. The applicant conducted a virtual neighborhood meeting on March 24, 2021 as required by the nonconforming zone boundary amendment process. The required meeting notices were mailed to the neighboring property owners within 1,500 feet of the project site and 4 people attended the meeting. Concerns raised at the meeting included relocating the entrance for the development to Decatur Boulevard rather than Edmond Street and addressing some sort of buffering to the RNP area.

### Site Plans

The plans depict a gated single family residential development on 16.1 acres consisting of 118 lots with a density of 7.3 dwelling units per acre. The site has frontage along Richmar Avenue, Edmond Street, Gary Avenue, and Decatur Boulevard; however, none of the proposed lots will take access directly from any of these streets. The plans depict the entrance to the subdivision is from Edmond Street on the west side of the site. Access to the lots within the development will be provided by 43 foot wide private streets that will have a 5 foot wide sidewalk on 1 side of the street. The plans depict 2 stub streets and 4 radius curb cul-de-sacs within the development. The stub streets will provide access to 3 lots each and are located on the eastern portion of the site.

### Landscaping

The plans depict 14 common element lots with a total area of 37,518 square feet. These common element lots are between 439 square feet and 10,113 square feet in area. Close to the entrance to the development is a 7,118 square foot common element lot which can be used as a park for the residents of the development. Other common elements are located along the public streets and along the side street of corner lots within the development for landscaping. These landscape areas will be between 6 feet and 15 feet in width and landscaping will consist of trees, shrubs and groundcover. Other common elements within the development will be used for drainage easements.

### Elevations

Plans were submitted for 1, one story home and 5, two story homes. The 1 story home will have a maximum height of approximately 14 feet and the 2 story homes will have a maximum height of approximately 29 feet. Each of the homes has a pitched roof with concrete tile roofing material. The exterior of the homes consists of a stucco finish painted in earth tone colors, stone veneer, and window fenestrations.

### Floor Plans

The home models will be between 1,203 square feet to 2,469 square feet in area. The homes have options for 2 to 6 bedrooms and each home will have a minimum 2 car garage.

### Applicant's Justification

The applicant indicates that there has been a shift in the character of the area and that the approval of this request would be consistent with surrounding neighborhoods in terms of density and lot orientation. The increase in the finished grade and the retaining wall heights are necessary due to the existing topography of the site in order to level the site for development and provide proper drainage.

### **Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
ZC-1832-03	Reclassified APN 176-24-801-008 to C-P zoning for future office use	Approved by BCC	January 2004

### **Surrounding Land Use**

	<b>Planned land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	Residential Low (up to 3.5 du/ac), Public Facilities & Commercial Neighborhood	R-E (RNP-I) & R-E	Single family residential & undeveloped
South	Residential Suburban (up to 8 du/ac) & Residential High (from 8 to 18 du/ac)	R-E	Single family residential & undeveloped
East	Commercial Neighborhood & Business and Design/Research Park	R-E	Single family residential & undeveloped
West	Public Facilities	R-E	Undeveloped

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

### **Related Applications**

<b>Application Number</b>	<b>Request</b>
VS-21-0205	Vacation of easements and rights-of-way is a companion item on this agenda.
TM-21-500051	Tentative map for a single family residential development 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 that since the Enterprise Land Use Plan was adopted there have been substantial changes that have taken place that could not be foreseen with the adoption of the plan. The applicant also states that the Bureau of Land Management has sold several parcels which have been slowly converting the area to more of an urban feel with several acres being reclassified to R-2 zoning districts for single family residential developments. It is true that within portions of the Enterprise Planning Area several acres have been reclassified to R-2 zoning districts by nonconforming zone boundary amendments to allow for additional single family residential development. However, the existing single family residential developments in this area are developed in conformance with the Enterprise Land Use Plan. Therefore, in the area abutting this site there has not been a trend or change in laws, policies, or facts 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 inappropriate.

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 western 5 acres of this site are designated as Residential Suburban (up to 8 du/ac) in the Land Use Plan and that portion of the project is conforming. To the southwest is an existing single family residential development in an R-2 zone. The undeveloped parcels to the south are zoned R-E but planned Residential Suburban (up to 8 du/ac) and Residential High (from 8 to 18 du/ac). The proposed development is compatible with the existing and planned land uses to the south and southwest. To the northwest of this site are existing single family residences on parcels between 0.5 and 1.0 acres in area in an R-E (RNP-I) zone. The proposed development is adjacent to 3 sides of a 0.9 acre parcel that is developed with a single family residence in an R-E zone. The plans depict lots with a minimum area of 3,621 square feet adjacent to the existing residence that is adjacent to this site and lots with a minimum area of 3,300 square feet abutting the R-E (RNP-I) area to the northwest. Therefore, staff finds that the proposed development is not of a density and intensity compatible with existing developments to the north and northwest of this site.

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

There has been no indication from public services and facility providers that this development would have an adverse effect on public facilities and services in this area. The Clark County School District has indicated that this development would increase student yield by 47 students for the schools that serve this area (20 elementary students, 11 middle school students, and 16 high school students). The School District also indicates that the schools that would serve this area (Ries Elementary School, Tarkanian Middle School & Desert Oasis High School) are over capacity with current enrollment. As a residential development, the project would create an increased demand for parks within the area; however, this is off-set by the on-site recreational areas being provided for the residents of the development.

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

This request does comply with Goal 7 of the Comprehensive Master Plan to provide housing alternatives to meet a range of lifestyle choices, ages, and affordability levels. However, the smaller lots with greater density proposed for this project does not comply with Urban Specific Policy 4 to preserve existing residential neighborhoods by encouraging vacant lots within these areas to develop at similar densities as the existing area. Based on this policy the proposed development should transition the lot sizes within the development to have larger lots abutting the existing R-E zoned developments. The proposed project is providing 37,518 square feet of open space of which 7,118 square feet is for a park for the residents of the development. Most of the open space is for landscape areas and various easements. This does not comply in part with Urban Specific Policy 39 for single family residential developments to provide residential courts and other opportunities for increased usable open space and recreational facilities. The proposed neighborhood park is located by the entrance to the development on the western portion of the site. This does not comply in part with Urban Specific Policy 40, which encourages open space to be centrally located. Therefore, staff finds that this request does not comply with other applicable goals and policies.

## **Summary**

### Zone Change

Staff finds that there has not been a trend or change in laws, policies, or facts 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 proposed development is not of a density and intensity compatible with existing developments to the north and northwest of this site. There has been no indication from public services and facility providers that this development would have an adverse effect on public facilities and services in this area, and this request does not comply with other applicable goals and policies of the Comprehensive Master Plan.

### 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 landscaping to the less intense use, the existing single family residence on 0.9 acres abutting the site, is intended to mitigate the impacts of the proposed higher density, smaller lot residential development on the existing residence. Without the landscaping, staff finds the proposed development will have negative impacts on the existing residence; therefore, staff does not support this request.

#### Waiver of Development Standards #2

The existing topography of the site could be a unique or special circumstance for the site to allow for an increase in wall height. A similar waiver of development standards was approved for the existing single family residential development to the southwest. Since a similar waiver to increase wall height has been approved for an abutting development, staff would not object to this request; however, since staff does not support the zone change or the design reviews which are needed to allow the proposed development, staff does not support the request to increase wall height for this proposed subdivision design.

#### Design Review #1

As stated above this project does not comply with Urban Specific Policy 4 to preserve existing residential neighborhoods by encouraging vacant lots within these areas to develop at similar densities as the existing area. The proposed development should transition the lot sizes within the development to have larger lots abutting the existing R-E zoned developments. Per Urban Specific Policies 39 and 40 the single family residential development should provide more centrally located open space for recreational facilities. The proposed development only has 1 access point, which is from Edmond Street. This does not comply with Urban Specific Policy 7 which encourages land uses to provide appropriate connectivity and not be segregated. Additionally, staff does not support the zone change portion of this request which is necessary for this project; therefore, staff does not support the design review.

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

#### 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.

While staff typically supports design review applications for increased fill, that is not the case with this application. Staff does not necessarily object to adding fill above 18 inches, but the overall need for fill in various locations is based on a site design that staff objects to. Since it is too premature to vacate Gary Avenue between Hauck Street and Edmond Street, staff is unable to support the overall design of the project.

### **Department of Aviation**

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

A portion of the property lies within the AE-60 (60 - 65 DNL) noise contour for McCarran International Airport and is subject to continuing aircraft noise and over-flights. Future demand for air travel and airport operations is expected to increase significantly. Clark County intends to continue to upgrade McCarran International facilities to meet future air traffic demand.

### **Staff Recommendation**

Denial. This item will be forwarded to the Board of County Commissioners' meeting for final action on July 21, 2021 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 Comprehensive Master Plan, Title 30, and/or the Nevada Revised Statutes.

### **PRELIMINARY STAFF CONDITIONS:**

#### **Current Planning**

If approved:

- Resolution of Intent to complete in 4 years;
- Provide pedestrian access through the common elements to Richmar Avenue, Gary Avenue, and Decatur Boulevard;
- 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 30 feet for Gary Avenue with a portion of an elbow at Hauck Street, 30 feet for Edmond Street, 30 feet for Richmar Avenue, 5 additional feet to the back of curb for Decatur Boulevard, and associated spandrels;
- Coordinate with Public Works - Design Division for the Decatur Boulevard improvement project;
- Dedicate any necessary right-of-way and easements for the Decatur Boulevard improvement Project.
- 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.

#### **Department of Aviation**

- For that portion in the AE-60, applicant must record a stand-alone noise disclosure form against the land, and provide a copy of the recorded document to the Department of Aviation;
- For that portion in the AE-60, applicant must provide a copy of the recorded noise disclosure form to future buyers/renters, separate from other escrow documents, and provide a copy of the document to the Department of Aviation;
- For that portion in the AE-60, applicant must provide a map to future buyers/renters, as part of the noise disclosure notice, that highlights the project location and associated flight tracks, provided by the Department of Aviation when property sales/leases commence;
- For that portion in the AE-60, incorporate an exterior to interior noise level reduction of 30 decibels into the building construction for the habitable space that exceeds 35 feet in height or 25 decibels into the building construction for the habitable space that is less than 35 feet in height.
- Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; that the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations which was constructed after October 1, 1998; and that funds will not be available in the future should the residents wish to have their buildings purchased or soundproofed.

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

- Applicant is advised to submit plans for review and approval prior to installing any gates, speed humps (speed bumps not allowed), and any other fire apparatus access roadway obstructions.



**Southern Nevada Health District (SNHD) - Septic**

- Applicant is advised that there is an active septic permit on APN 176-24-801-008; to connect to municipal sewer and remove the septic system in accordance with Section 17 of the SNHD *Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management*; and to submit documentation to SNHD showing that the system has been properly removed.

**Clark County Water Reclamation District (CCWRD)**

- Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email [sewerlocation@cleanwaterteam.com](mailto:sewerlocation@cleanwaterteam.com) and reference POC Tracking #0392-2020 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:** Enterprise - approval (9 foot walls to be terraced; keep access to Gary Avenue; 5,200 square foot lots adjacent to parcel 176-24-801-002; denial of waivers of development standards and design reviews).

**APPROVALS:**

**PROTESTS:**

**APPLICANT:** KB HOME

**CONTACT:** THE WLB GROUP, 3663 EAST SUNSET ROAD, SUITE 204, LAS VEGAS, NV 89120