

SINGLE FAMILY DEVELOPMENT  
(TITLE 30)

**UPDATE**  
CHARTAN AVE/PLACID ST

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**NZC-21-0123-BADSM PARTNERS, LLC:**

**AMENDED HOLDOVER ZONE CHANGE** to reclassify 7.4 acres from an R-E (Rural Estates Residential) (RNP-I) Zone to an R-D (Suburban Estates Residential) Zone and R-2 (Medium Density Residential) Zone (previously not notified).

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** increase wall height; **2)** waive perimeter landscaping along a local street; and **3)** waive full off-site improvements (partial paving, curb, gutter, sidewalk, and streetlights).

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

Generally located on the south side of Chartan Avenue and the east side of Placid Street within Enterprise (description on file). MN/rk/jd (For possible action)

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RELATED INFORMATION:

**APN:**

177-33-801-012; 177-33-801-028

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. a. Increase interior and perimeter wall height to 6 feet, 8 inches where a maximum of 6 feet is permitted per Section 30.64.020 and Table 30.64-1 (an 11% increase).
- b. Increase combined screen wall and retaining wall height to 12 feet (6 foot retaining wall and 6 foot screen wall) where a maximum of 9 feet (3 foot retaining wall and 6 foot screen wall) is permitted per Section 30.64.050 (a 33% increase).
2. Waive perimeter landscaping along a local street (Chartan Avenue) where per Figure 30-64-5 or 64-6 is required.
3. Waive full off-site improvements including streetlights, sidewalk, curb, gutter, and partial paving width along Chartan Avenue and Placid Street where required per Section 30.52.050.

**DESIGN REVIEWS:**

1. Single family residential development.
2. Increase finished grade to **108 inches (9 feet)** (previously notified as 48 inches (4 feet)) where 18 inches is the standard per Section 30.32.030 (a 500% increase).

**LAND USE PLAN:**

ENTERPRISE - RURAL NEIGHBORHOOD PRESERVATION (UP TO 2 DU/AC)

## **BACKGROUND:**

### **Project Description**

#### **General Summary**

- Site Address: 11185 Fairfield Avenue
- Site Acreage: **6.88 overall acreage; R-D: 6.03 net acres; R-2: 0.85 net acres**
- Number of Lots: **24**
- Density (du/ac): **R-D: 2.9; R-2: 7.0**
- Minimum/Maximum Lot Size (square feet): **R-D: 11,200/18,018 (gross)/9,066/14,394 (net); R-2: 6,016/6,802 (gross)/6,016/6,125 (net)**
- Project Type: Single family residential development
- Number of Stories: **1 & 2**
- Building Height (feet): Up to 35
- Square Feet: **R-D: 2,668/3,150; R-2: 2,940/3,072**

#### **Neighborhood Meeting Summary**

The applicant conducted a neighborhood meeting on January 21, 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 20 attendees present at the virtual (Zoom) meeting for this item. The attendees had questions on the design and layout of the project. Further issues that were discussed were related to overall density, the request for 3 story homes, traffic, and access.

#### Site Plans

The plans depict a proposed **24** lot single family residential development on **6.88** acres. **The revised plans now show a portion of the development located near the southeast portion of the site, adjacent to an existing R-2 single family development as R-2 zoning (a total of 6 lots). The remainder of the site (total of 18 lots) is proposed for R-D zoning.** The density of the residential subdivision is **2.9 dwelling units per acre for the R-D portion of the development, and 7.0 dwelling units per acre for the R-2 portion of the development.** The lots range in size from a minimum of **6,016** square feet to a maximum of **18,018** square feet. The design of the subdivision also includes a drainage easement along the western portion of the site. The lots within the subdivision will be served by 42 foot wide internal private streets, which include an attached sidewalk on 1 side of the street. Access to the development will be available from the proposed residential subdivisions (Silverado Court VII and VIII) to the south. The private street extends to the north from the access point, with a cul-de-sac extending to the west. No access is shown from Chartan Avenue or Placid Street. These public roads will be constructed to rural standards with 32 feet of pavement instead of the full pavement, and without curb, gutter, sidewalk, and streetlights normally required for a public street under 60 feet in width. The plans also depict that the finished grade of the site will be increased up to 4 feet along the north and west portions of the development in order to properly drain the site due to an existing wash. These areas of the site are also where the over height retaining walls are located.

#### Landscaping

There is no street landscaping proposed with this request. Internal to the development are additional street landscape buffers along the corner side lots.

### Elevations

**All the models for the R-D product will be 1 story in height, while the models for the R-2 product will be 2 stories.** Three different house plans with 4 separate elevations per plan are offered by the developer with an option for a rooftop deck. All the products have similar building materials consisting of stucco exteriors, decorative stone veneer accents, tile roofing, and 4 sided architecture around windows and doors.

### Floor Plans

The models range in size from **2,668 square feet to 3,150 square feet for the R-D product and the size of the R-2 product is 2,940 square feet to 3,072 square feet** with options that include multiple bedrooms, 2 to 3 car garages, and options for bonus rooms and game rooms.

### Applicant's Justification

The applicant indicates a great deal of thought and planning have resulted in this submittal request, while respecting the existing development. Since the opening of the Starr Avenue interchange at I-15, and the future development to the south across St. Rose Parkway, this area has seen significant change. The proposed R-D zoning will serve as a buffer from the more intense uses while providing transitional lot sizes between the R-1, **R-2**, and R-E zoned lots. This proposed community will continue the alignment of Twisty Ridge Street from the Silverado Court VIII project (TM-18-500009) to the south, with ultimate access to Starr Avenue. There has been significant and substantial changes since the last amendment to the Enterprise Land Use Plan with the approvals of adjacent R-1 zoned and R-2 zoned subdivisions, and the changed traffic circulation patterns (as a result of the opening of the Starr Interchange, along with development of the West Henderson Business Park). Furthermore, according to the applicant this project will not adversely impact public facilities, and will in fact, solve a long-standing drainage issue that causes flooding in the area.

### **Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
WS-19-0144	Waivers to allow modifications for off-site improvements with a design review for a single family residential development	Approved by BCC	April 2019
VS-19-0145	Vacated and abandoned a 6 foot wide, 630 foot long, portion of Chartan Avenue and a 3 foot wide streetlight and traffic control easement along Chartan Avenue - expired	Approved by BCC	April 2019
TM-19-500047	8 single family residential lots on 4.9 acres	Approved by BCC	April 2019

### Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North & West	Rural Neighborhood Preservation (up to 2 du/ac)	R-E (RNP-I)	Single family residential & undeveloped
South	Rural Neighborhood Preservation (up to 2 du/ac) & Residential Low (up to 3.5 du/ac)	R-E (RNP-I) & R-1	Single family residential & undeveloped
East	Rural Neighborhood Preservation (up to 2 du/ac) & Residential Suburban (up to 8 du/ac)	R-E (RNP-I) & 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-21-0124	A vacation of government patent easements along the boundary of APN 177-33-801-012 is a companion item on this agenda.
TM-21-500032	A tentative map for <b>24</b> single family residential lots on <b>6.88</b> 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 that the proposed development will serve as a buffer from the more intense uses while providing transitional lot sizes between the R-1, **R-2**, and R-E zoned lots. There has also been changes since the last amendment to the Enterprise Land Use Plan with the approvals of adjacent R-1 zoned and R-2 zoned subdivisions, and the changed traffic circulation patterns (as a result of the opening of the Starr Interchange, along with development of the West Henderson Business Park). Furthermore, according to the applicant this project will not adversely impact public facilities, and will in fact, solve a long standing drainage issue that causes flooding in the area.

Although there is existing and approved suburban residential development in the area, those developments are essentially on the south side of Terrill Avenue (alignment) which makes this development fully within the Rural Neighborhood Preservation (RNP) area. As a result, Terrill Avenue should act as a border between the more intense uses and the R-E/RNP-I to the north of that street.

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 that the project will provide a single family residential development that is 2.9 dwelling units per acre between the existing RNP areas to the north and west and the more intense residential uses to the south and east. In addition, as shown on the plans, all of the lots adjacent to the existing RNP homes are a minimum of 10,000 square feet.

This request for lots that are less than half acre in area in a neighborhood that is contiguous to R-E/RNP-I to the north and west is out of character with development in the immediate area. 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. Therefore, staff finds the proposed project is not compatible with the density of the existing and planned land uses in the RNP neighborhoods to the north and south.

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 technical studies will be prepared to address any impacts from the proposed residential development; therefore, public infrastructure facilities will not be adversely impacted.

Various Clark County service departments have reviewed this development proposal and found adequate services available or have specified the type of improvements that are needed for this development. Sufficient public services may not exist in the immediate area and because the site is in the Public Facilities Needs Assessment (PFNA) area, a standard development agreement will be necessary prior to issuance of any building permits to mitigate any short falls in needed public facilities. Based on information received from the Clark County School District, the elementary school and high school located within the corresponding school zone was over capacity for the 2020-2021 school year. Staff is concerned that the cumulative impact from the individual student yield of this project and future projects in the immediate area may further exacerbate the existing capacity situations, especially since this area was not planned to accommodate the number of additional residential units and no new schools are planned in the future.

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

The applicant states that the proposed development satisfies County goals by providing housing alternatives to meet a range of lifestyle choices, ages, and affordability levels.

This request is a nonconforming zone change and conflicts with Urban Specific Policy 8 of the Comprehensive Master Plan which discourages nonconforming zone changes. It is County policy to preserve the rural lifestyle of property within the existing RNP-I Overlay. The request does not comply with Land Use Goals 5 of the Comprehensive Master Plan which encourages providing opportunities for developing low density residential areas as a lifestyle choice.

## **Summary**

### **Zone Change & Design Review #1**

Staff is concerned with the potential incompatibility between this development and existing land uses immediately adjacent to the site. Approval of this project will allow more dense zoning to intrude into an existing R-E (RNP-I) area; therefore, based on the criteria listed above, staff finds the applicant has not satisfied the requirements for a compelling justification to warrant approval of this application and 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.

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

Although staff has supported similar waivers to increase screen and retaining wall heights, approval of this request is contingent upon approval of the zone change and design reviews which staff cannot support.

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

Although staff has supported similar street landscape waivers in rural areas, approval of this request is contingent upon approval of the zone change and design reviews which staff cannot support.

## **Public Works - Development Review**

### **Waiver of Development Standards #3**

Staff has no objection to not install full off-site improvements on Chartan Avenue and Placid Street. The parcels along both streets are in the RNP-I overlay district, resulting in the existing non-urban standards for the roadways. However, since Planning is recommending denial of the application, staff cannot support this request.

### **Design Review #2**

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

### **Department of Aviation**

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

### **Staff Recommendation**

Denial. This item will be forwarded to the Board of County Commissioners' meeting for final action on **August 18, 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;
- **Only 1 story homes within the R-D portion of the development;**
- No 3 story homes within the development;
- Design review as a public hearing on any significant changes to plans;
- 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.
- 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;
- Execute a Restrictive Covenant Agreement (deed restrictions).

- Applicant is advised that this site is located within a Special Flood Hazard Area (SFHA) as designated by the Federal Emergency Management Agency (FEMA); and that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals.

#### **Department of Aviation**

- Applicant is advised that issuing a stand-alone noise disclosure statement to the purchaser or renter of each residential unit in the proposed development and to forward the completed and recorded noise disclosure statements to the Department of Aviation's Noise Office is strongly encouraged; the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations which was constructed after October 1, 1998; and that funds will not be available in the future should the residents wish to have their homes purchased or soundproofed.

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

- No comment.

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

- Applicant is advised that there is an active septic permit on APN 177-33-801-012; 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 initiated for this project; to email [sewerlocation@cleanwaterteam.com](mailto:sewerlocation@cleanwaterteam.com) and reference POC Tracking #0042-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

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

**APPROVALS:**

**PROTESTS:** 16 cards, 37 letters

**PLANNING COMMISSION ACTION:** May 4, 2021 – HELD – To 06/01/21 – per the applicant.

**PLANNING COMMISSION ACTION:** June 1, 2021 – HELD – To 07/20/21 – per the applicant to rewrite/re-notify and to return to the Enterprise Town Board.

CHRIS ARMSTRONG C/O GOOLD PATTERSON

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