

CLARK COUNTY BOARD OF COMMISSIONERS
ZONING / SUBDIVISIONS / LAND USE
AGENDA ITEM

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

Recommendation: ORD-21-900302: Conduct a public hearing on an ordinance to consider adoption of a Development Agreement with Blue Diamond Industrial Venture, LLC for a warehouse (Becknell Blue Diamond) on 13.75 acres, generally located west of Lindell Road between Blue Diamond Road and Ford Avenue within Enterprise. JJ/ab (For possible action)

FISCAL IMPACT:

None by this action.

BACKGROUND:

The Board of County Commissioners (Board) approved a land use application ZC-1420-03 for a warehouse (Becknell Blue Diamond) on 13.75 acres, generally located west of Lindell Road between Blue Diamond Road and Ford 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 conduct a public hearing.

Cleared For Agenda
07/21/21

BILL NO. 7-7-21-1

SUMMARY - An ordinance to adopt the Development Agreement with Blue Diamond Industrial Venture, LLC for a warehouse (Becknell Blue Diamond) on 13.75 acres, generally located west of Lindell Road between Blue Diamond Road and Ford Avenue within Enterprise.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH BLUE DIAMOND INDUSTRIAL VENTURE, LLC FOR A WAREHOUSE (BECKNELL BLUE DIAMOND) ON 13.75 ACRES, GENERALLY LOCATED WEST OF LINDELL ROAD BETWEEN BLUE DIAMOND ROAD AND FORD 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 Blue Diamond Industrial Venture, LLC for a warehouse (Becknell Blue Diamond) on 13.75 acres, generally located west of Lindell Road between Blue Diamond Road and Ford 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 _____, 2021

INTRODUCED by: _____

PASSED on the _____ day of _____, 2021

VOTE:

AYES: _____

NAYS: _____

ABSTAINING:

ABSENT:

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
MARILYN K. KIRKPATRICK, Chair

ATTEST:

Lynn Marie Goya, County Clerk

This ordinance shall be in force and effect from and after the _____ day
of _____ 2021.

APN(s): **176-13-411-014, 176-24-111-003 and 176-13-410-007**

Please Return to: Joel McCulloch

Comprehensive Planning Department

1st Floor, Clark County Government Center

500 Grand Central Parkway

Las Vegas, Nevada 89155

DEVELOPMENT AGREEMENT

BETWEEN

THE COUNTY OF CLARK

AND

BLUE DIAMOND INDUSTRIAL VENTURE, LLC

FOR

BECKNELL BLUE DIAMOND

ORD-21-900302

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 **BLUE DIAMOND INDUSTRIAL VENTURE, LLC** the Owner(s) 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 and refers to the following:
 - (i) 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 Planned Community, 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 Planned Community, unless and until the parties agree that the development of the Planned Community 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) "CCRFCD" means the Clark County Regional Flood Control District.
- (f) "Code" means the Clark County Code, including all rules, regulations, standards, criteria, manuals and other references adopted herein.
- (g) "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 **ZC-1420-03**, the Agenda Sheet, Notice of Final Action and agenda map attached hereto as Exhibit "C" and incorporated herein by this reference.
- (h) "County" means the County of Clark, State of Nevada together with its successors and assigns.
- (i) "County Commission" means the Board of County Commissioners or Planning Commission of the County of Clark, State of Nevada.
- (j) "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.
- (k) "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.
- (l) "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.
- (m) "NDOT" means Nevada Department of Transportation.
- (n) "NRS" means Nevada Revised Statutes.
- (o) "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.
- (p) "Planned Community" means the Subject Property and the proposed development of the Subject Property described in this Agreement.
- (q) "Street Improvements" means public or private facilities that may include but are not limited to fire hydrants, sidewalks, curbs, gutters, pavement, gravel, aggregate base, streetlights, street name signs, traffic signals and signs, pavement markings, other applicable traffic control

devices, survey monuments, flood control and drainage facilities which are permitted within public rights-of-way as required by the County.

(r) "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".

(s) "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 Planned Community 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 Clark County 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 Planned Community 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 Planned Community 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 Planned Community. 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 Planned Community 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 Planned Community 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 PLANNED COMMUNITY

3.01 Time for Construction and Completion of the Planned Community. 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 Planned Community. Nothing herein shall be construed to require the Owner to develop the Planned Community 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 Planned Community 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 Planned Community may proceed as if all of it were in an area designated "Community District 2" notwithstanding that portions of the Planned Community which otherwise have the characteristics of "Community District 3".

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 Planned Community 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 Planned Community. 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 Planned Community 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 Planned Community, 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 Safety¹	
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 Transportation 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 Planned Community 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 Planned Community 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-reference 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 waiver 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 their 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, they 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 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, 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 Planned Community within the area covered by a recorded subdivision map shall be subject to the obligations of Owner as to the portion of the Planned Community 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 Planned Community.

(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 Planned Community 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 Planned Community.

(d) Financial Transactions. Owner has full discretion and authority to transfer, assign or encumber the Planned Community 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 there from, 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.

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 Planned Community. 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 Planned Community. 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 residential lot 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 a building permit for the construction of a residence thereon.

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(p) 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: _____
Marilyn K. Kirkpatrick, 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:

BLUE DIAMOND INDUSTRIAL VENTURE, LLC, a Delaware limited liability company

By: Becknell Blue Diamond Las Vegas Investors LLC, a co-managing member

By: Becknell Industrial LLC, its sole member

By: J. Mark Shapland
Name: J. Mark Shapland
As: Authorized Signatory

By: GPO Blue Diamond LLC, a co-managing member

By: _____
Name: Joseph A. Versaggi
Its: President

ACKNOWLEDGMENTS:

STATE OF IL)
) SS
COUNTY OF COOK)

This instrument was acknowledged before me on the 21st day of June, 2021, by J. Mark Shapland, as Authorized Signatory of Becknell Industrial LLC, sole member of Becknell Blue Diamond Las Vegas Investors LLC, Co-Manager of BLUE DIAMOND INDUSTRIAL VENTURE, LLC, on behalf of said company.



[Signature]
Notary Public

COMMONWEALTH OF MASSACHUSETTS)
) SS
COUNTY OF SUFFOLK)

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared Joseph A. Versaggi, as President of GPO Blue Diamond LLC, a co-managing member of Blue Diamond Industrial Venture, LLC, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as President of GPO Blue Diamond LLC, a co-managing member of Blue Diamond Industrial Venture, LLC.

Notary Public

BLUE DIAMOND INDUSTRIAL VENTURE, LLC, a Delaware limited liability company

By: Becknell Industrial LLC, its sole member

By: GPO Blue Diamond LLC, a co-managing member


 **AMY B. GOLDEN**
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
November 18, 2022

EXHIBIT "A"

EXPLANATION

This describes a parcel of land south of La Costa Canyon Court, east of Lindell Road, and north of Blue Diamond Road.

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

A PORTION OF LOT ONE (1) OF THE FINAL MAP OF BLUE DIAMOND RANCH- A COMMERCIAL SUBDIVISION, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 122 OF PLATS, PAGE 02, IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, BEING A PARCEL OF LAND IN THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, TOWNSHIP 22 SOUTH, RANGE 60 EAST, MDM, AND A PARCEL OF LAND IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 24, TOWNSHIP 22 SOUTH, RANGE 60 EAST, MDM, CLARK COUNTY, NEVADA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 13 AND 24 IN SAID TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M. AS SHOWN BY MAP THEREOF ON FILE IN BOOK 122, PAGE 02 OF PLATS IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE; THENCE NORTH 00°09'13" WEST, ALONG THE NORTH-SOUTH CENTER-OF-SECTION LINE, A DISTANCE OF 378.23 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BLUE DIAMOND ROAD; THENCE SOUTH 61°01'07" WEST, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 541.08 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 61°01'07" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 485.81 TO THE EAST LINE OF PARCEL 4-B AS SHOWN BY MAP THEREOF ON FILE IN FILE 146, PAGE 45 OF SURVEYS IN THE CLARK COUNTY RECORDER'S OFFICE; THENCE NORTH 00°59'24" WEST, ALONG THE EAST LINE OF SAID LOT 4-B AND A PROLONGATION THEREOF, A DISTANCE OF 919.29 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF LA COSTA CANYON COURT AS DESCRIBED IN INSTRUMENT RECORDED IN BOOK 20020402 AS DOCUMENT NO. 02350 IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE; THENCE NORTH 88°57'13" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 428.30 FEET TO THE NORTHWEST CORNER OF AREA 2 AS SHOWN BY MAP THEREOF ON FILE IN FILE 127, PAGE 65 OF SURVEYS IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE; THENCE SOUTH 01°02'47" EAST, ALONG THE WEST LINE OF SAID AREA 2, A DISTANCE OF 691.70 FEET TO THE POINT OF BEGINNING.

FURTHER BEING DESCRIBED AS AREA 2 AS SHOWN ON THAT CERTAIN RECORD OF SURVEY ON FILE IN FILE 148 OF SURVEY MAPS, PAGE 21, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

(APN 176-24-111-003 AND 176-13-411-014)

PARCEL 2:

A PORTION OF LOT ONE (1) OF BLUE DIAMOND RANCHES, L.L.C.-INDUSTRIAL, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101 OF PLATS, PAGE 43, IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, BEING A PARCEL OF LAND IN THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, TOWNSHIP 22 SOUTH, RANGE 60 EAST, MDM, CLARK COUNTY, NEVADA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 13 AND 24 IN SAID TOWNSHIP 22 SOUTH, RANGE 60 EAST, MDM, ALSO BEING THE CENTERLINE INTERSECTION OF LINDELL ROAD AND PEBBLE ROAD AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, PAGE 43 OF PLATS IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE; THENCE NORTH 00°09'13" WEST, ALONG THE NORTH-SOUTH

CENTER-OF SECTION LINE IN SAID SECTION 13 AND THE CENTERLINE OF LINDELL ROAD, A DISTANCE OF 378.23 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BLUE DIAMOND ROAD; THENCE SOUTH $61^{\circ}01'07''$ WEST, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 45.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH $61^{\circ}01'07''$ WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 495.42 FEET; THENCE NORTH $01^{\circ}02'47''$ WEST, A DISTANCE OF 691.70 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF "B" STREET AS DESCRIBED IN BOOK 20020402, INSTRUMENT NO. 02350; THENCE NORTH $88^{\circ}57'13''$ EAST, ALONG SAID SOUTH RIGHT-OF-

WAY LINE, A DISTANCE OF 419.97 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 24.50 FEET AND A CENTRAL ANGLE OF $90^{\circ}53'34''$; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, A DISTANCE OF 38.87 FEET, TO A POINT TO WHICH A RADIAL LINE BEARS SOUTH $89^{\circ}50'47''$ EAST AND SAID WEST RIGHT-OF-WAY LINE OF LINDELL ROAD; THENCE SOUTH $00^{\circ}09'15''$ EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 434.78 FEET TO THE POINT OF BEGINNING.

FURTHER BEING DESCRIBED AS AREA 2 AS SHOWN ON THAT CERTAIN RECORD OF SURVEY ON FILE IN FILE 126 OF SURVEY MAPS, PAGE 95, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

(APN 176-13-410-007)

Exhibit "B"
Development Agreement Owner Correspondence

To Owner: BLUE DIAMOND INDUSTRIAL VENTURE, LLC
2750 E 146th Street, Suite 20
Carmel, IN 46033.

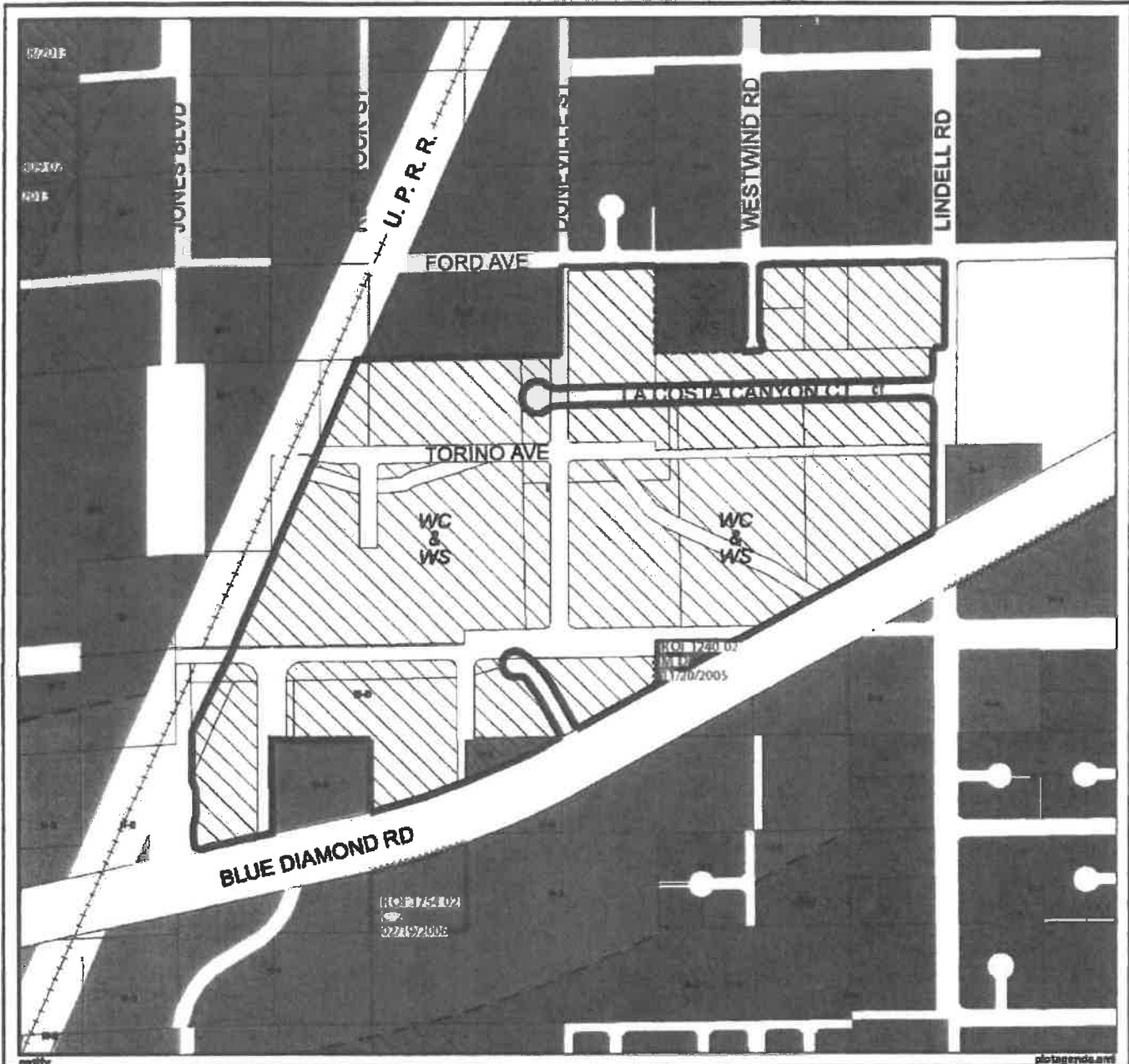
With a copy to: GPO Blue Diamond LLC
c/o Washington Management, Inc.
260 Franklin Street, Suite 1900
Boston, MA 02110
Attn: Joseph A. Versaggi

With a copy to: Harrington Law LLC
201 W. Springfield Avenue, Suite 601
P.O. Box 1550
Champaign, IL 61824-1550
Attn: Patrick Harrington

EXHIBIT "C"

Agenda Sheet, Notice of Final Action, and agenda map

(Attached)



APPLICATION NUMBER

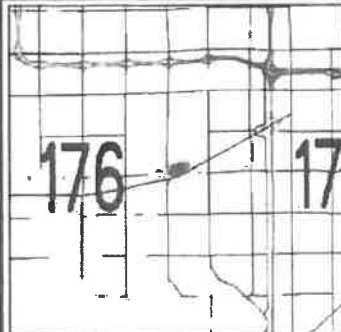
ZC-1420-03

SUBJECT SECTION(S)

SEC13 T22S R60E
SEC24 T22S R60E



SCALE: 1 INCH = 500 FEET
MAP CREATED ON 08-09-11



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

RESIDENTIAL DISTRICTS

RURAL	SINGLE FAMILY	MULTIPLE FAMILY
R-U	R-1	R-3
R-A	R-1a	R-4
R-E	R-T	R-5
R-D	R-2	
	RUD	

NON-RESIDENTIAL DISTRICTS

COMMERCIAL	SPECIAL	MANUFACTURING
CRT	O-S	M-D
C-P	H-2	M-1
C-1	P-F	M-2
C-C	RVP	M-3
C-2	U-V	
C-3	H-1	
	T-C	

OVERLAY ZONES

P-C MLZ RNP

OTHER

- DT-BUF
- Travel/Access/Drainage
- Exemptions
- Incorporated City
- DOI / ZC
- Zoning Boundary
- Non-Mediated Public Road
- Power Lines (Older and Targus)
- Proposed Highway
- Railroads

10/22/03 BCC AGENDA SHEET

INDUSTRIAL COMPLEX
(TITLE 30)

FORD AVE/LINDELL RD

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

ZC-1420-03 - B D R INDUSTRIAL INCORPORATED ET AL:

ZONE CHANGE to reclassify 2.2 acres from R-E (Rural Estates Residential) Zone to M-D (Designed Manufacturing) Zone for an industrial building.

WAIVER OF DEVELOPMENT STANDARDS for off-site improvements on Ford Avenue.

WAIVERS OF CONDITIONS of two zone changes requiring the following: 1) recording a reciprocal, perpetual cross access, ingress/egress, and parking agreements; and 2) full off-site improvements as required by action of ZC-1584-98 and ZC-1239-02. This request acts as a design review for an industrial building.

Generally located on the west side of Lindell Road between Blue Diamond Road and Ford Avenue within Enterprise (description on file). BWtc

RELATED INFORMATION:

APN:

176-13-401-007 thru 011, 022, & 029; 176-13-410-002 & 007 thru 013; 176-24-101-002 & 105; 176-24-110-002 thru 005

MASTER PLAN/LAND USE GUIDE:

ENTERPRISE - UP TO BUSINESS PARK/INDUSTRIAL

BACKGROUND:

Project Description

The zone change portion of this request is to rezone two lots in the block bounded by Blue Diamond Road on the south, Jones Boulevard on the west, Ford Avenue on the north, and Lindell Road on the east. Two previous zone change applications rezoned a majority of this property to M-D zoning leaving only a few parcels zoned R-E or H-2, with the entire area planned for Business Park Industrial uses. The property, under zoning consideration, is situated on the south side of Ford Avenue and the west side of Westwind Road (alignment). The plans show a 56,714 square foot industrial building, tilt-up panel construction, and with a light stucco finish. One hundred and twenty parking spaces are furnished where 114 spaces are required. The floor plans are tenant build to suit.

A portion of the waiver of conditions request is for issues related to Ford Avenue. The two previous zoning applications for this entire site (Blue Diamond Industrial Park) required full off-sites for the south half of Ford Avenue. The applicant indicates that the residential properties on the north side of Ford Avenue are master planned for Rural Neighborhood Preservation and allows for rural off-site standards for the north side of Ford Avenue. Additionally, full off-site improvements on the south side of Ford Avenue would not be compatible with the rural

streetscape on the north side of the street. The waiver of development standards is for the same issue for the rezoning portion of this application.

The other waiver of conditions requests are to allow each pad site to have independent and self-contained access and parking. The contention is that the sites will have individual owners that may not want other industrial clients parking or driving across their property, and each parcel will have access from a public right-of-way.

Prior Land Use Requests

The M-D zoning for the majority of this site was approved by the Board of County Commissioners (BCC) by action of ZC-1584-98 in November 1998. An extension of time, ZC-1584-98 (ET-0309-02), was approved by the BCC in November 2002 to remove the time limit and adopt the M-D zoning designation. ZC-1239-02 and ZC-1240-02 were also approved by the BCC in October 2002 and November 2002, respectively, to reclassify additional parcels adjacent to the site to M-D zoning so they could be incorporated into the commercial subdivision. VS-1349-00 was approved by the Planning Commission in March 2001 to vacate patent easements and portions of right-of-way. WS-0625-01 was also approved by the Planning Commission in June 2001 to reduce the parking by 43% within the industrial complex. A subsequent vacation application for easements (VS-1788-02) was approved in January 2003.

Surrounding Zoning and Land Use

There is a remaining residence zoned R-E in the northwest quadrant of this block. To the north across Ford Avenue are developed and undeveloped residential properties zoned R-E. To the east across Lindell Road is vacant property zoned M-D and H-2 and approved for a plant nursery and tavern (UC-0648-03). To the south across Blue Diamond Road are vacant parcels in the Blue Diamond corridor zoned H-2. To the west is the Union Pacific Railroad right-of-way, and west of that is vacant H-2 and M-1 zoned parcels.

STANDARDS FOR APPROVAL:

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

Analysis

Current Planning

The rezoning portion of this request is a logical expansion of the M-D zoning for this industrial park and the proposed industrial building is appropriate at this location. Because a waiver of development standards to reduce parking to 407 spaces where 710 are required (a 43% reduction) for the existing industrial use on the westernmost portion of the site has been granted, staff is concerned that eliminating the requirement for a cross-parking and access agreement could have a future negative impact on this development and the surrounding area, including the RNP to the north, since employees and customers may park on the surrounding streets.

Civil Engineering

The developers previously constructed full off-site improvements on Lindell Road, La Costa Canyon Court, Kens Court, and Ford Avenue as conditions of approval of previous land use applications for the Blue Diamond Industrial Complex. Additionally, the Nevada Department of Transportation will construct full off-sites in conjunction with their widening project along Blue Diamond Road. The applicant now is requesting a waiver of development standards for full off-

sites for additional frontage of the project along Ford Avenue. The applicant's justification of the waiver of full off-sites is to be compatible with the rural preservation zone to the north. While the area north of Ford Avenue is rural residential, the area south of Ford Avenue on the west side of Lindell Road is all zoned for industrial use. Civil Engineering finds the request to waive off-sites on the south side of Ford Avenue to be incongruent with the industrial use of the project, and because some frontage of the industrial park has full off-sites constructed would result in discontinuous off-site construction along Ford Avenue. Construction of full off-sites is necessary for proper drainage control and is appropriate considering the size and intense use of the Blue Diamond Industrial Complex site.

Staff recommends approval of the zone change and design review, and denial of the waiver of development standards and waiver of conditions #1 and #2.

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 Plan, Title 30, and/or the Nevada Revised Statutes.

PRELIMINARY STAFF CONDITIONS:

Current Planning

If approved, subject to a minimum 20 foot wide intense landscape strip along Ford Avenue; entering into a 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; no loading areas adjacent to or visible from Ford Avenue; no loading docks within 200 feet of a residential use; recording a reciprocal, perpetual cross access, ingress/egress, and parking easement; and all applicable standard conditions for this application type. Applicant is advised that any change in circumstances or regulations may be justification for the denial of an extension of time.

Civil Engineering

Recommend denial of the waiver of development standards for full off-sites; construct full off-sites; update traffic study for Blue Diamond Ranches Industrial Park; drainage study to be coordinated with ZC-1584-98 and ZC-1239-02; vacate any unnecessary rights-of-way or easements; any applicable vacations to be recordable prior to permits or first map submittal and record concurrent with first map; off-sites on Blue Diamond Road to be approved by the Nevada Department of Transportation. (jkl)

TAB/CAC:

APPROVALS:

PROTESTS:

APPLICANT: The Keith Companies Incorporated

CONTACT: The Keith Companies Incorporated, Cindie Gee, 444 South Warm Springs Road #110, Las Vegas, NV 89119



Department of Development Services

Current Planning Division

500 S Grand Central Pky • PO Box 551841 • Las Vegas NV 89155-1841
(702) 455-4314 • Fax (702) 455-3271

Phil Rosenquist, Director • Barbara Ginoulas, Assistant Director

NOTICE OF FINAL ACTION

REVISED

March 3, 2004

The Keith Companies Incorporated
Cindie Gee
444 South Warm Springs Road #110
Las Vegas, NV 89119

REFERENCE: ZC-1420-03

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 marking 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 October 22, 2003 and was **APPROVED** subject to the conditions listed below and/or on the attached sheet. 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, each will have its own expiration date. It is the applicant's responsibility to keep each application current.

CONDITIONS: Subject to a minimum 20 foot wide intense landscape strip along Ford Avenue; entering into a 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; no loading areas adjacent to or visible from Ford Avenue; no loading docks within 200 feet of a residential use; construct full off-sites; update traffic study for Blue Diamond Ranches Industrial Park; drainage study to be coordinated with ZC-1584-98 and ZC-1239-02; vacate any unnecessary rights-of-way or easements; any applicable vacations to be recordable prior to permits or first map submittal and record concurrent with first map; off-sites on Blue Diamond Road to be approved by the Nevada Department of Transportation; and all applicable standard conditions for this application type. Applicant is advised that any change in circumstances or regulations may be justification for the denial of an extension of time. **WAIVER OF DEVELOPMENT STANDARDS AND WAIVER OF CONDITIONS #2 WERE DENIED.**

BOARD OF COUNTY COMMISSIONERS
CHIP MAXFIELD, Chairman • MYRNA WILLIAMS, Vice-Chair
YVONNE ATKINSON GATES • MARK A. JAMES • MARY KINCAID-CHAUNCEY • RORY REID • BRUCE L. WOODBURY
THOM REILLY, County Manager

[illegible]