

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

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

Recommendation: ORD-21-900581: Introduce an ordinance to consider adoption of a Development Agreement with Ashley Furniture Industries, LLC for a commercial development (Sunset and Riley) on 18.7 acres, generally located south of Sunset Road and east and north of Rafael Rivera Way within Spring Valley. JJ/ab (For possible action)

FISCAL IMPACT:

None by this action.

BACKGROUND:

The Board of County Commissioners (Board) approved a land use application NZC-21-0038 for a commercial development (Sunset and Riley) on 18.7 acres, generally located south of Sunset Road and east and north of Rafael Rivera Way within Spring Valley. 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 set a public hearing for November 3, 2021.

Cleared For Agenda
10/20/21

BILL NO. _____

SUMMARY - An ordinance to adopt the Development Agreement with Ashley Furniture Industries, LLC for a commercial development (Sunset and Riley) on 18.7 acres, generally located south of Sunset Road and east and north of Rafael Rivera Way within Spring Valley.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT WITH ASHLEY FURNITURE INDUSTRIES, LLC FOR A COMMERCIAL DEVELOPMENT (SUNSET AND RILEY) ON 18.7 ACRES, GENERALLY LOCATED SOUTH OF SUNSET ROAD AND EAST AND NORTH OF RAFAEL RIVERA WAY WITHIN SPRING VALLEY, 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 Ashley Furniture Industries, LLC for a commercial development (Sunset and Riley) on 18.7 acres, generally located south of Sunset Road and east and north of Rafael Rivera Way within Spring Valley, 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): **176-05-510-002, 003, 004**
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

ASHLEY FURNITURE INDUSTRIES, LLC

FOR

SUNSET AND RILEY

ORD-21-900581

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 **Ashley Furniture Industries, LLC** the Owner 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) "**CCRFC**" 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 **NZC-21-0038**, 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 wavier 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:

Ashley Furniture Industries, LLC

By: 

Troy Muller, Treasurer

REVIEWED
By DMU at 12:26 pm, Sep 21, 2021

ACKNOWLEDGMENT:

STATE OF WISCONSIN)
)ss:
COUNTY OF TREMPLEAU)

HEATHER PRYOR
NOTARY PUBLIC
STATE OF WISCONSIN

This instrument was acknowledged before me on the 20nd day of September, 2021,

by Troy Muller
Troy Muller

NOTARY PUBLIC

Heather Pryor
Signature

My Commission expires: 5/4/2024

Exhibit "A"
Legal Description

(see next page for attachment)

Exhibit "C"
Agenda Sheet, Notice of Final Action, and Agenda Map

(see next page for attachments)

**Legal Description
for 176-05-510-002
EXHIBIT A**

PARCEL 1 :

BEING A PORTION OF LOT 1 OF SILVER LEAF, A COMMERCIAL SUBDIVISION RECORDED IN BOOK 150 OF PLATS, PAGE 11 IN THE CLARK COUNTY RECORDER'S OFFICE, LYING WITHIN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 5, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SUNSET ROAD, AS DEDICATED TO CLARK COUNTY PER DOCUMENT RECORDED IN BOOK 960905, AS INSTRUMENT NO. 01491 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 1, SOUTH 01°27'24" EAST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE HAVING A RADIUS OF 430.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 09°16'48", AN ARC LENGTH OF 69.65 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE CONTINUATION OF THE SAME CURVE HAVING A RADIUS OF 430.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 79°15'48" WEST;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 45°00'52", AN ARC LENGTH OF 337.83 FEET TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 430.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 34°14'56" EAST;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE SOUTHWESTERLY THROUGH A CENTRAL ANGLE OF 55°33'28", AN ARC LENGTH OF 416.96 FEET;

THENCE SOUTH 00°11'36" EAST, A DISTANCE OF 323.18 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF LAS VEGAS BELTWAY AS SHOWN ON SAID PLAT, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 827.77 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°21'31" EAST;

THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, BEING ALSO THE SOUTHERLY LINE SAID LOT 1, ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 03°51'38", AN ARC LENGTH OF 55.77 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,217.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°15'14" WEST;

THENCE CONTINUING WESTERLY ALONG THE ARCH OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 07°09'12", AN ARC LENGTH OF 151.94 FEET;

THENCE NORTH 08°23'48" EAST, A DISTANCE OF 0.23 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,217.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 08°23'48" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 08°47'55", AN ARC LENGTH OF 186.89 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,000.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 20°01'56" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 04°10'36", AN ARC LENGTH OF 72.90 FEET TO THE BEGINNING OF A COMPOUND CURVE HAVING A RADIUS OF 2,091.83 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 24°12'32" WEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 07°20'42", AN ARC LENGTH OF 268.16 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,152.77 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 29°33'57" WEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 09°39'18", AN ARC LENGTH OF 194.25 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,315.50 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 41°04'31" WEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 11°35'13", AN ARC LENGTH OF 266.04 FEET;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE AND SOUTHERLY LINE OF SAID LOT 1, NORTH 55°42'45" EAST, A DISTANCE OF 318.99 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 962.33 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 54°31'38" WEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 05°36'07", AN ARC LENGTH OF 94.09 FEET;

THENCE NORTH 58°34'30" EAST, A DISTANCE OF 91.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,000.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 33°09'33" WEST;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 15°40'45", AN ARC LENGTH OF 273.65 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 150.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 16°35'13" WEST;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE SOUTHERLY THROUGH A CENTRAL ANGLE OF 18°11'22", AN ARC LENGTH OF 47.62 FEET TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 150.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°36'08" WEST;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 12°20'20", AN ARC LENGTH OF 32.30 FEET;

THENCE NORTH 79°15'48" EAST, A DISTANCE OF 49.56 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS LOT 1A AS SHOWN ON RECORD OF SURVEY ON FILE IN FILE 202 OF SURVEYS, PAGE 77, RECORDED MARCH 09, 2017 IN BOOK 20170309 AS INSTRUMENT NO. 01822, OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED MARCH 16, 2017 IN BOOK 20170316 AS INSTRUMENT NO. 00348 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

PARCEL 1-A:

EASEMENTS AS SET FORTH IN AND SUBJECT TO THAT CERTAIN "ROAD MAINTENANCE AND EASEMENT AGREEMENT" RECORDED DECEMBER 22, 2014 IN BOOK 20141222 AS INSTRUMENT NO. 02548 AND "FIRST AMENDMENT TO ROAD MAINTENANCE AND EASEMENT AGREEMENT" RECORDED JULY 14, 2015 IN BOOK 20150714 AS INSTRUMENT NO. 02106 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

FILE 1024511

**Legal Descriptions for
176-05-510-003 & 004
EXHIBIT A**

PARCEL 1:

BEING A PORTION OF LOT 1 OF SILVER LEAF, A COMMERCIAL SUBDIVISION RECORDED IN BOOK 150 OF PLATS, PAGE 11 IN THE CLARK COUNTY RECORDER'S OFFICE, LYING WITHIN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 05, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SUNSET ROAD, AS DEDICATED TO CLARK COUNTY PER DOCUMENT RECORDED IN BOOK 960905, AS INSTRUMENT NO. 01491 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 1, SOUTH 01°27'24" EAST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE HAVING A RADIUS OF 430.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 09°16'48", AN ARC LENGTH OF 69.65 FEET;

THENCE DEPARTING SAID EASTERLY BOUNDARY SOUTH 79°15'48" WEST, A DISTANCE OF 49.56 FEET TO THE BEGINNING OF A TANGENT CURVE HAVING A RADIUS OF 150.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 12°20'20", AN ARC LENGTH OF 32.30 FEET TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 150.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 01°36'08" EAST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE SOUTHERLY THROUGH A CENTRAL ANGLE OF 18°11'22", AN ARC LENGTH OF 47.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,000.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 17°28'48" WEST;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 15°40'45", AN ARC LENGTH OF 273.65 FEET;

THENCE SOUTH 58°34'30" WEST, A DISTANCE OF 101.85 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 971.96 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 60°07'17" WEST;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 19°35'27", AN ARC LENGTH OF 332.34 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID SUNSET ROAD, BEING ALSO THE NORTHERLY LINE OF SAID LOT 1;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND NORTHERLY LOT LINE, NORTH 80°37'02" EAST, A DISTANCE OF 257.09 FEET;

THENCE NORTH 89°11'43" EAST, A DISTANCE OF 311.36 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS LOT 1C ON THAT CERTAIN RECORD OF SURVEY ON FILE 202 OF SURVEYS, PAGE 77, RECORDED MARCH 09, 2017 IN BOOK 20170309 AS DOCUMENT NO. 01822, OF OFFICIAL RECORDS.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED MARCH 08, 2017 IN BOOK 20170308 AS INSTRUMENT NO. 03216 OF OFFICIAL RECORDS.

PARCEL 1-A:

EASEMENTS AS SET FORTH IN AND SUBJECT TO THAT CERTAIN "ROAD MAINTENANCE AND EASEMENT AGREEMENT" RECORDED DECEMBER 22, 2014 IN BOOK 20141222 AS INSTRUMENT NO. 02548 AND "FIRST AMENDMENT TO ROAD MAINTENANCE AND EASEMENT AGREEMENT" RECORDED JULY 14, 2015 IN BOOK 20150714 AS INSTRUMENT NO. 02106 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

PARCEL 2:

BEING A PORTION OF LOT 1 OF SILVER LEAF, A COMMERCIAL SUBDIVISION RECORDED IN BOOK 150 OF PLATS, PAGE 11 IN THE CLARK COUNTY RECORDER'S OFFICE, LYING WITHIN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 05, TOWNSHIP 22 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SUNSET ROAD, AS DEDICATED TO CLARK COUNTY PER DOCUMENT RECORDED IN BOOK 960905, AS INSTRUMENT NO. 01491 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 1, SOUTH 01°27'24" EAST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE HAVING A RADIUS OF 430.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 09°16'48", AN ARC LENGTH OF 69.65 FEET;

THENCE DEPARTING SAID EASTERLY BOUNDARY SOUTH 79°15'48" WEST, A DISTANCE OF 49.56 FEET TO THE BEGINNING OF A TANGENT CURVE HAVING A RADIUS OF 150.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHERLY THROUGH A CENTRAL ANGLE OF 12°20'20", AN ARC LENGTH OF 32.30 FEET TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 150.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 01°36'08" EAST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE SOUTHERLY THROUGH A CENTRAL ANGLE OF 18°11'22", AN ARC LENGTH OF 47.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1,000.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 17°28'48" WEST;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 15°40'45", AN ARC LENGTH OF 273.65 FEET;

THENCE SOUTH 58°34'30" WEST, A DISTANCE OF 91.84 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 962.33 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 60°07'45" WEST;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 05°36'07", AN ARC LENGTH OF 94.09 FEET;

THENCE SOUTH 55°42'45" WEST, A DISTANCE OF 318.99 FEET TO THE NORTHERLY RIGHT-OF WAY LINE OF LAS VEGAS BELTWAY AS SHOWN ON SAID PLAT, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 1315.50 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 52°39'44" WEST,

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 06°37'17", AN ARC LENGTH OF 152.03 FEET TO THE BEGINNING OF A COMPOUNDING CURVE HAVING A RADIUS OF 1152.77 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 61°33'14" WEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT CONCAVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 14°37'24", AN ARC LENGTH OF 294.21 FEET;

THENCE NORTH 25°45'11" EAST, A DISTANCE OF 161.02 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 1 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID SUNSET ROAD;

THENCE ALONG SAID NORTHERLY LOT LINE AND SOUTHERLY RIGHT-OF-WAY LINE, NORTH 89°11'43" EAST, A DISTANCE OF 101.36 FEET;

THENCE NORTH 80°37'02" EAST, A DISTANCE OF 111.68 FEET TO THE BEGINNING OF A NONTANGENT CURVE HAVING A RADIUS OF 971.96 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 79°42'44" WEST;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 19°35'27", AN ARC LENGTH OF 332.34 FEET;

THENCE NORTH 58°34'30" EAST, A DISTANCE OF 10.01 FEET TO THE POINT OF BEGINNING.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED MARCH 08, 2017, IN BOOK 20170308, AS INSTRUMENT NO. 03216.

ALSO KNOWN AS LOT 1B AS SHOWN ON RECORD OF SURVEY ON FILE IN FILE 202 OF SURVEYS PAGE 77,
RECORDED MARCH 09, 2017, IN BOOK 20170309 AS DOCUMENT NO. 01822, OF OFFICIAL RECORDS,
CLARK COUNTY, NEVADA.

PARCEL 2-A:

EASEMENTS AS SET FORTH IN AND SUBJECT TO THAT CERTAIN "ROAD MAINTENANCE AND EASEMENT
AGREEMENT" RECORDED DECEMBER 22, 2014 IN BOOK 20141222 AS DOCUMENT NO. 02548 AND
"FIRST AMENDMENT TO ROAD MAINTENANCE AND EASEMENT AGREEMENT" RECORDED JULY 14, 2015
IN BOOK 20150714 AS DOCUMENT NO. 02106, OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

ASSESSOR'S COPY

Exhibit "B"
Development Agreement Owner Correspondence



Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 455-3271

Nancy A. Amundsen, Director

NOTICE OF FINAL ACTION

June 28, 2021

GEORGE GARCIA
G. C. GARCIA, INC
1055 WHITNEY RANCH DRIVE, SUITE 210
LAS VEGAS, NV 89014

REFERENCE: NZC-21-0038

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 NRS 278.3195, which starts 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 **June 16, 2021** and was **APPROVED** subject to the conditions listed below. 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 with each having its own expiration date. **It is the applicant's responsibility to keep the application current.**

CONDITIONS OF APPROVAL -

Current Planning

- **Resolution of Intent to complete in 3 years;**
- **Limit sign radiance to 300 nits (auto adjusted);**
- **Minimum time for display of message is 6 seconds before message changes to a new image;**
- **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.**

BOARD OF COUNTY COMMISSIONERS

MARILYN KIRKPATRICK, Chair • JAMES B. GIBSON, Vice Chair
MICHAEL NAFT • JUSTIN C. JONES • TICK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II
YOLANDA T. KING, County Manager



Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 455-3271

Nancy A. Amundsen, Director

Public Works - Development Review

- Enter into a cost participation agreement for a sidewalk along Rafael Rivera Way from the private drive aisle, known as Riley Street, west/northwest to the concrete barrier;
- Grant an easement along the entire frontage of the site adjacent to Rafael Rivera Way for pedestrian access;
- Grant an easement over the sidewalk along the entire frontage of the site adjacent to the private drive aisle, known as Riley Street, for pedestrian access;
- 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);
- Execute a License and Maintenance Agreement for any non-standard improvements within the right-of-way;
- Coordinate with Clark County Public Works - Directors Office for the Beltway frontage road improvement project;
- Coordinate with Public Works - Development Review for improvements in or adjacent to the slope easements.
- Applicant is advised that off-site improvement permits may be required 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.

Building Department - Fire Prevention

- Applicant is advised to show on-site fire lane, turning radius, and turnarounds (portions of site included in this scope may not allow access to future pads); and 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.

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 and reference POC Tracking #0334-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

WAIVER OF DEVELOPMENT STANDARDS #6B WAS WITHDRAWN WITHOUT PREJUDICE.

BOARD OF COUNTY COMMISSIONERS

MARILYN KIRKPATRICK, Chair • JAMES B. GIBSON, Vice Chair
MICHAEL NAFT • JUSTIN C. JONES • TICK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II
YOLANDA T. KING, County Manager

DISTRIBUTION CENTER
(TITLE 30)

SUNSET RD/RAFAEL RIVERA WY

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

NZC-21-0038-UL215, LLC ETAL & UW215, LLC:

AMENDED ZONE CHANGE to reclassify 18.7 acres from a C-2 (General Commercial) Zone to an M-D (Designed Manufacturing) Zone.

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** increase building height (previously not notified); **2)** screening loading docks; **3)** increase sign height; **4)** increase animated sign area; **5)** alternative perimeter landscape and screening; **6)** non-standard improvements within right-of-way; **7)** waive the sidewalk requirement along Rafael Rivera Way; **8)** allow an attached sidewalk along portions of Sunset Road; and **9)** modified driveway design standards.

DESIGN REVIEWS for the following: **1)** a proposed distribution center with ancillary retail sales; **2)** a comprehensive sign plan; and **3)** finished grade in the CMA Design Overlay District.

Generally located on the south side of Sunset Road and the east and north sides of Rafael Rivera Way within Spring Valley (description on file). JJ/rk/jd (For possible action)

RELATED INFORMATION:

APN:

176-05-510-002 through 176-05-510-004

WAIVERS OF DEVELOPMENT STANDARDS:

1. Increase building height to 60 feet where 50 feet is permitted per Table 30.40-5 (a 20% increase) (previously not notified).
2. Allow a loading dock area to not be screened from right-of-way (Rafael Rivera Way).
3. Increase the height of a freestanding sign to 70 feet where a maximum height of 28 feet is permitted per Section 30.48.680 (a 150% increase).
4. Increase animated sign area to 576 square feet where a maximum area of 70 square feet is permitted per Section 30.48.680 (a 723% increase).
5.
 - a. Allow an alternative perimeter landscape area and retaining wall on-site adjacent to Rafael Rivera Way where a 15 foot minimum landscape area is required per Section 30.48.660 and screening per Section 30.64.020.
 - b. Allow an alternative perimeter landscape area on-site adjacent to Sunset Road where a 15 foot minimum landscape area is required per Figure 30.64-17.
6.
 - a. Allow proposed landscaping in the Sunset Road right-of-way between the proposed driveway and Riley Street where not permitted per Chapter 30.52.
 - b. Allow a proposed retaining wall in the slope easement along Rafael Rivera Way where not permitted per Chapter 30.52.

7. Waive requirements for sidewalks adjacent to Rafael Rivera Way where required per Chapter 30.52.
8. Allow an attached sidewalk along portions of an arterial street (Sunset Road) where a detached sidewalk is required per Figure 30.64-17.
9. Reduce throat depth for a driveway along Sunset Road to a minimum of 43 feet where 100 feet is the standard per Uniform Standard Drawing 222.1 (a 57% reduction).

DESIGN REVIEWS:

1. For a furniture distribution center.
2. For a comprehensive sign plan.
3. Increase finished grade to 60 inches (5 feet) where a maximum of 18 inches (1.5 feet) is the standard per Section 30.32.040 (a 233% increase).

LAND USE PLAN:

SPRING VALLEY - COMMERCIAL TOURIST

BACKGROUND:

Project Description

General Summary

- Site Address: 6555 S. Riley Street
- Site Acreage: 18.7
- Project Type: Furniture distribution center
- Number of Stories: 1 & 2
- Building Height (feet): 47
- Square Feet: 93,042 (retail showroom)/180,180 (warehouse distribution)
- Parking Required/Provided: 281/285

Neighborhood Meeting Summary

The applicant conducted a neighborhood meeting on December 17, 2020, as required by the nonconforming amendment process. All owners within 1,500 feet of the project site were notified about the meeting. There were no attendees present at the virtual (Zoom) meeting for this item.

Site Plans

The plans depict a proposed 273,222 square foot furniture distribution center (Ashley Home Store) consisting of a single building located in the central portion of the site and 3 future retail pad sites located to the east along Riley Street (a private drive aisle). The site is bounded by roads on 3 sides of the development. Access to the site is provided by 1 driveway on Sunset Road, 2 driveways on Riley Street. No access is shown on Rafael Rivera Way. Parking for the facility is spread out through the site and meets the CMA Design Overlay standards. The building is set back 97 feet from Sunset Road, 179 feet from Riley Street, 117 feet from Rafael Rivera Way. Loading areas and trash enclosures are located on the west side of the building. The service area that contains overhead doors and loading docks is not technically screened from the CC 215 frontage road (Rafael Rivera Way); however, the site is depressed by approximately 16 feet. A total of 285 parking spaces are provided where 281 parking spaces are required.

Landscaping

Waivers of development standards are being requested to allow for an alternative landscape plan to accommodate the existing approved and constructed conditions. Some landscaping is provided along Rafael Rivera Way; however, due to the severe slopes, additional landscaping and sidewalk could not be provided. Trees along Riley Street are typically 60 feet on center with tree clusters at the corners and entry points. Where trees are provided on Rafael Rivera Way, they are 30 feet on center. Also, alternative landscaping to accommodate the existing approved and constructed conditions is being requested along Sunset Road. Trees are typically 40 feet on center with tree clusters at the corners and entry points and groundcover is provided at 50 percent per Code. The pad site parking lot landscaping will be addressed in the future. A 6 foot decorative retaining wall that is set back 11 feet from property line runs along Rafael Rivera Way. The wall is needed to accommodate the elevated road system. The landscape materials include large trees, shrubs, and groundcover.

Elevations

The building will be 60 feet high and constructed of concrete tilt-up panels with glass store fronts, and vertical/horizontal reveal lines with color changes. Other building materials will consist of decorative metal ribbon panels and metal canopies over the doorways. The height of the building varies from 45 feet to 60 feet and has been designed to break-up the roofline and enhance the overall look of the building. The loading dock area will be located on the west side of the building.

Floor Plans

The plans show the building will consist of a 93,042 square foot office/showroom (first floor 49,082 square feet; second floor 43,960 square feet) where customers can come view and select furnishing for their respective projects, with the remaining area 180,180 square feet being utilized for distribution warehouse activities.

Signage

This site is in the CMA Design Overlay District and as such signage requires approval as part of a design review. This request is for the distribution warehouse site and depicts the location, height, square footage, and materials being used. The sign types within this submittal package consists of freestanding, monument, canopy, and wall signs.

The plan depicts a 70 foot high freestanding sign on Rafael Rivera Way and a monument sign on Riley Street. The 70 foot high freestanding sign is located on the southwest portion of the site. The sign is double face which includes a 576 square foot animated video display near the center of the main sign face. The overall sign area is 864 square feet and is oriented in a north/south direction. The 10 foot high monument sign is located at the main driveway entrance onto Riley Street and is 70 square feet in area. Both the wall signs and freestanding sign have elements that are compatible with the materials used for the building in the complex and will consist of internally illuminated cabinets and panel channel letters.

Applicant's Justification

The applicant indicates the proposed Ashley Furniture Home Store and distribution facility on this site is appropriate given the proximity to CC 215 and Sunset Road. The use is consistent

and compatible with the surrounding area. The area along the CC 215 has seen many changes in land use from commercial uses to light industrial and distribution warehouse uses. In addition, M-D zoning can be found along Sunset Road heading east of the subject site. This project will bring significant employment and provide much needed services to the growing southwest section of Clark County.

Prior Land Use Requests

Application Number	Request	Action	Date
ET-19-400138 (WS-0690-17)	Extension of time for a commercial center	Approved by BCC	January 2020
ET-19-400163 (UC-0121-17)	Extension of time for a commercial center	Approved by BCC	January 2020
UC-19-0301	Allowed a one time temporary outdoor commercial event (San Gennaro Feast)	Approved by BCC	July 2019
ADET-19-900308 (UC-0895-16)	Extension of time for a hotel - expired	Approved by ZA	May 2019
ADET-19-900307 (WS-0896-16)	Extension of time for a retail center - expired	Approved by ZA	May 2019
WS-0690-17	Modifications to an approved commercial center	Approved by BCC	October 2017
UC-0694-17	Allowed a one time temporary outdoor commercial event (San Gennaro Feast)	Approved by BCC	September 2017
UC-0121-17	Commercial center	Approved by BCC	April 2017
WS-0896-16	Retail center on the northeast corner of the parcel - expired	Approved by BCC	March 2017
UC-0895-16	Hotel on the northwest corner of the parcel - expired	Approved by BCC	March 2017
WS-0107-16	A parking lot in conjunction with the IKEA store - expired	Approved by BCC	April 2016
WS-0107-15	Off-site improvement requirements in conjunction with an approved commercial timeshare development - expired	Approved by BCC	April 2015
TM-0112-14	1 lot commercial subdivision on 20.4 acres	Approved by PC	September 2014
DR-0082-14	Commercial timeshare development and signage - expired	Approved by BCC	April 2014
ZC-0613-04	Zone boundary amendment to C-2 zoning for a future commercial development - this zone boundary amendment zoned most of the site	Approved by BCC	May 2004
ZC-1749-00	Zone boundary amendment to C-2 zoning on a portion of the site	Approved by BCC	January 2001

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Residential Urban Center (18 to 32 du/ac), Commercial General, & Business and Design/Research Park	R-4, C-2, & U-V	Office component of a developing horizontally mixed-use development & undeveloped
East	Commercial Tourist	C-2	IKEA store
South & West	CC 215, Major Development Project (Rhodes Ranch), & Commercial Tourist	CC 215, H-1, R-2, & R-E	CC 215 (Rafael Rivera Way frontage road) & undeveloped

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

STANDARDS FOR APPROVAL:

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

Analysis

Current Planning

Zone Change

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

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

The distribution warehouse is located adjacent to an existing large scale retail business (IKEA) and since 2014, several parcels located north of the CC 215 along Sunset Road that were designated for commercial development in the land use plan have been reclassified into business design manufacturing land uses. In addition, M-D zoning can be found along Sunset Road heading east of the subject site. The proposed project is appropriate for a location bounded on 2 sides by the CC 215.

- 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 density and intensity of the use being proposed by this amendment is compatible with the existing and planned land uses in the area. The project in terms of scale, intensity, and density are compatible with the adjacent development (IKEA Outlet) located adjacent to the site. Furthermore, the overall site has been designed to minimize impacts on the surrounding commercial land uses. The site has immediate access to Sunset Road, which connects to the frontage road to the CC 215 entrance ramp.

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 proposed zone change will not result in any additional impacts on surrounding infrastructure not already contemplated in the area. The facility will take advantage of the adjacent CC 215 for any traffic and will utilize existing infrastructure. There has been no indication from service providers that this request will have a substantial adverse effect on public facilities and services. Various Clark County service departments have reviewed the development proposal based on the information submitted by the applicant and, based on the comments received from those service providers, the project is not anticipated to have additional impacts on the surrounding infrastructure beyond what would have been anticipated for a commercial development.

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

Pursuant to the policies of the new Urban Land Use Policies, Policy 10 “encourages site design to be compatible with adjacent land use and off-site circulation patterns.” The site is located adjacent to existing commercial development with quick access to Sunset Road and the CC 215. Not only is the proposed development compatible with the general policy of the Urban Land Use Policies, but it is also compatible with the more specific industrial policies of the Comprehensive Master Plan. Industrial Policy 100 requires developments to be complementary with abutting uses through site planning and building design on the perimeter. Appropriate buffers, setbacks, landscaping, building height and materials, and adjoining land uses and densities should be considered and integrated into industrial developments. The buildings are designed to blend well with the existing to the east. The buildings have been oriented in such a way to ensure the loading areas and ramps are located near the center of the site, buffered by the sloped berm of the CC 215.

Summary

Zone Change

The density and intensity of the proposed project are consistent and compatible with existing and planned developments in this area. There has been no indication that the proposed project will have an adverse impact on public services or facilities in this area. The proposed project complies with other goals and policies within the Clark County Comprehensive Master Plan. Staff finds the applicant has provided a Compelling Justification to warrant approval of the nonconforming zone boundary request.

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 (Increase Building Height)

Staff can support the increase in building height. Portions of the main roofline are approximately 60 feet in height, which is only 10 feet above the permitted height and the additional height is a result of breaking-up the roofline and providing architectural features at the main entry on the building. Additionally, there is no existing residential in the area and the height increase will not negatively impact the surrounding industrial and commercial uses. In addition, the requested building height is similar to approved heights in the area. Furthermore, the proposed building is approximately 16 feet below grade of Rafael Rivera Way.

Waiver of Development Standards #2 (Loading Area)

The loading areas and ramps are located near the center of the site and buffered by the sloped berm of the CC 215. The site is depressed from the frontage road (Rafael Rivera Way) and varies from 2 feet to 16 feet with slopes of up to 40 percent. Landscaping is provided where possible; however, a screen wall is not practical and would create a canyon effect along Rafael Rivera Way with walls over 12 feet in height. The loading docks will be significantly lower than the roadway and direct line of sight is not possible. Therefore, staff can support this portion of the request.

Waiver of Development Standards #3 (Sign Height)

Staff does not typically support a request to increase the height of freestanding signs within the CMA Design Overlay District adjacent to the CC 215. In 2014, IKEA outlet had a freestanding sign approved at a maximum height of 108 feet. Since 2005, there have been a number of different automobile dealerships and shopping centers along the CC 215 that were approved to increase the height of freestanding signs. The site is approximately 16 feet below the grade of Rafael Rivera Way; therefore, staff can support the sign height if limited to 70 feet.

Waiver of Development Standards #4 (Sign Animation)

Staff finds that the proposed size of the freestanding sign and amount of animation is not consistent with the intent of the CMA sign regulations. The animated portions of the sign exceed the allowable standard for animation in the CMA by 723 percent. Staff does not support waivers in the CMA without mitigating circumstances. In the CMA, the intent is to discourage signs which contribute to visual clutter of the streetscape and ensure that signage enhances the overall development and the immediate area. The proposed request for sign area and animation is excessive and is not compatible with the surrounding area; therefore, staff cannot support this portion of the request.

Waivers of Development Standards #5a, #5b, & #8 (Perimeter Landscape and Screening)

The alternative landscaping and screening that will be provided with this project is visually appealing and provides an adequate amount of plant material to meet the intent of Code. Slopes created by a difference in grade between this site and the road surface of the frontage road make landscaping and sidewalk impractical. Furthermore, other projects including the IKEA site have been approved to modify landscape and screening requirements from Code. Therefore, staff can support this portion of the request.

Design Reviews #1 & #2

The intent of the CMA Design Overlay District is to encourage and promote a high quality level of development that produces a stable environment in harmony with existing and future development and protects the use and enjoyment of neighboring properties. The design of the proposed distribution center and signage (excluding the animation portion of the request design review #2) complies with the intent and requirements of the CMA Design Overlay District. Staff finds that the buildings comply with Urban Specific Policy 19 of the Comprehensive Master Plan which encourages breaking-up the mass of the buildings through height variations. Urban Specific Policy 7 encourages land uses that are complementary and are of similar scale and intensity. Staff finds that the proposed building is also complementary to the existing IKEA outlet site located to the east of the project site; therefore, staff can support this portion of the request.

Public Works - Development Review

Waiver of Development Standards #6a

The applicant is responsible for maintenance and up-keep of any non-standard improvement; the County will not maintain any landscaping placed in the right-of-way. Staff can support this request but the applicant must execute and sign a License and Maintenance Agreement for any non-standard improvements within the right-of-way.

Waiver of Development Standards #6b

Staff cannot support the request to allow a non-standard improvement within the right-of-way. The applicant is proposing to construct a retaining wall adjacent to Rafael Rivera Way which will not allow Clark County Public Works access to maintain the slope adjacent to the frontage road. There is an existing slope easement that allows the County the ability to get the necessary equipment in the areas and maintain the integrity of the slope.

Waiver of Development Standards #7

Staff cannot support the request to not install the sidewalk adjacent to Rafael Rivera Way. While staff understands that the sidewalk has not been installed along the eastern portion of Rafael Rivera Way, west of Durango Drive, the addition of the sidewalk adjacent to the frontage road will provide a safe pathway for pedestrians.

Waiver of Development Standards #9

Staff has no objection to the reduction in the throat depth for the Sunset Road commercial driveway. Although the throat depth is not meeting the minimum standard, the applicant is provided a designated right turn lane and eliminated parking near the driveway, which provides more room for vehicles to safely exit the right-of-way to gain access to the site.

Design Review #3

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.

Staff Recommendation

Approval of the zone change, waivers of development standards #1, #2, #3, #5a, #5b, #6a, #8, #9, and design reviews #1 and #3; denial of waivers of development standards #4, #6b, #7, and design review #2. This item has been forwarded to the Board of County Commissioners for final action.

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.

PLANNING COMMISSION ACTION: May 18, 2021 – APPROVED – Vote: Unanimous

Current Planning

- Resolution of Intent to complete in 3 years;
- Limit sign radiance to 300 nits (auto adjusted);
- Minimum time for display of message is 6 seconds before message changes to a new image;
- 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

- Enter into a cost participation agreement for a sidewalk along Rafael Rivera Way from the private drive aisle, known as Riley Street, west/northwest to the concrete barrier;
- Grant an easement along the entire frontage of the site adjacent to Rafael Rivera Way for pedestrian access;
- Grant an easement over the sidewalk along the entire frontage of the site adjacent to the private drive aisle, known as Riley Street, for pedestrian access;
- 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);
- Execute a License and Maintenance Agreement for any non-standard improvements within the right-of-way;

- Coordinate with Clark County Public Works - Directors Office for the Beltway frontage road improvement project;
- Coordinate with Public Works - Development Review for improvements in or adjacent to the slope easements.
- Applicant is advised that off-site improvement permits may be required 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.

Building Department - Fire Prevention

- Applicant is advised to show on-site fire lane, turning radius, and turnarounds (portions of site included in this scope may not allow access to future pads); and 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.

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 and reference POC Tracking #0334-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require a new POC analysis.

WAIVER OF DEVELOPMENT STANDARDS #6B WAS WITHDRAWN WITHOUT PREJUDICE.

TAB/CAC: Spring Valley - approval of the zone change, waivers of development standards #1, #2, #3, #5a, #5b, #6a, #7, #8, #9, and design reviews #1 and #3; denial of waiver of development standards #4 and design review #2 (waiver of development standards #6b was withdrawn per the applicant).

APPROVALS: 2 cards

PROTESTS: 2 cards

PLANNING COMMISSION ACTION: March 16, 2021 – HELD – To 05/04/21 – per the applicant.

PLANNING COMMISSION ACTION: May 4, 2021 – HELD – To 05/18/21 – per the applicant.

APPLICANT: HODGDON GROUP REALTY, INC

CONTACT: G.C. GARCIA, INC C/O GEORGE GARCIA, 1055 WHITNEY RANCH DRIVE, SUITE 210, LAS VEGAS, NV 89014

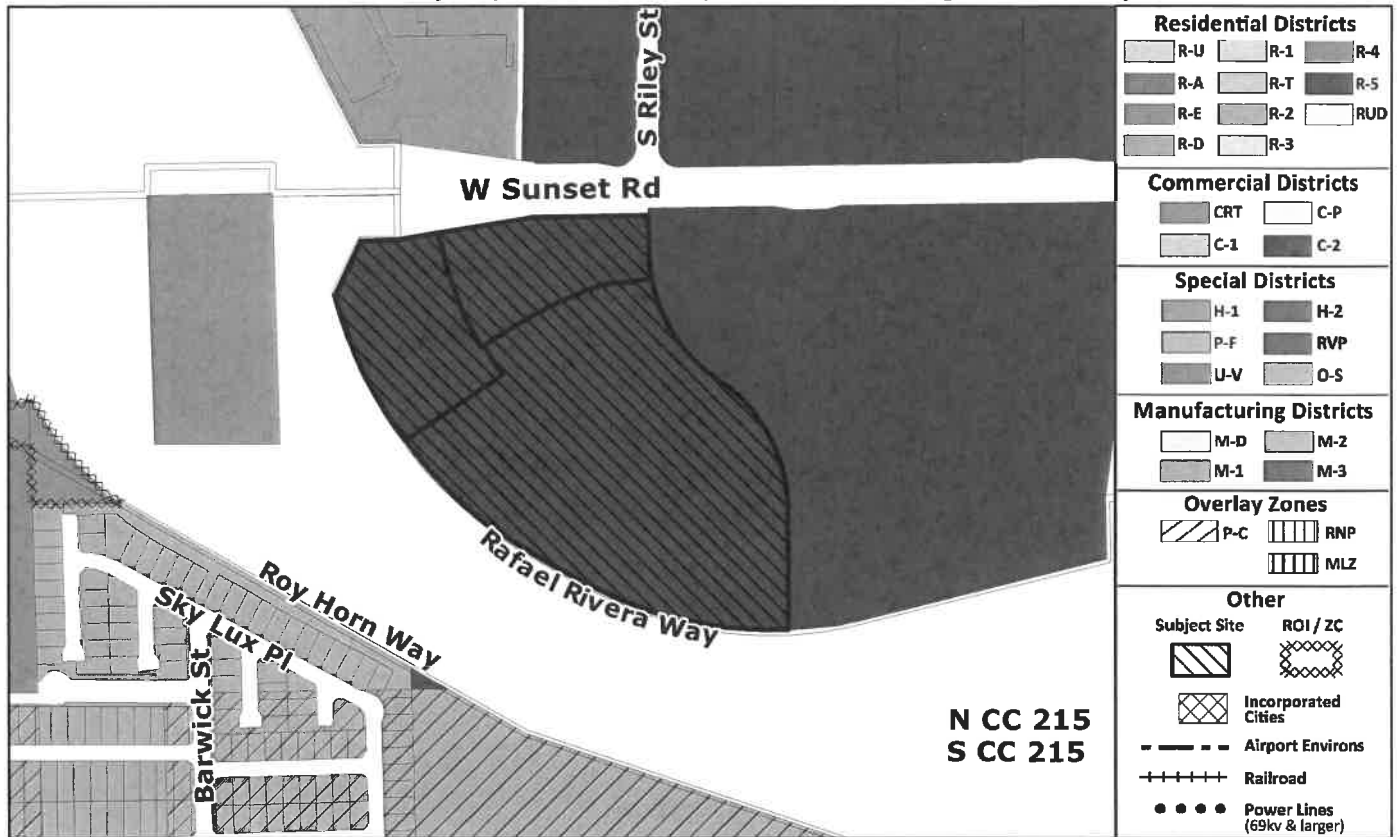
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Commission Agenda Map

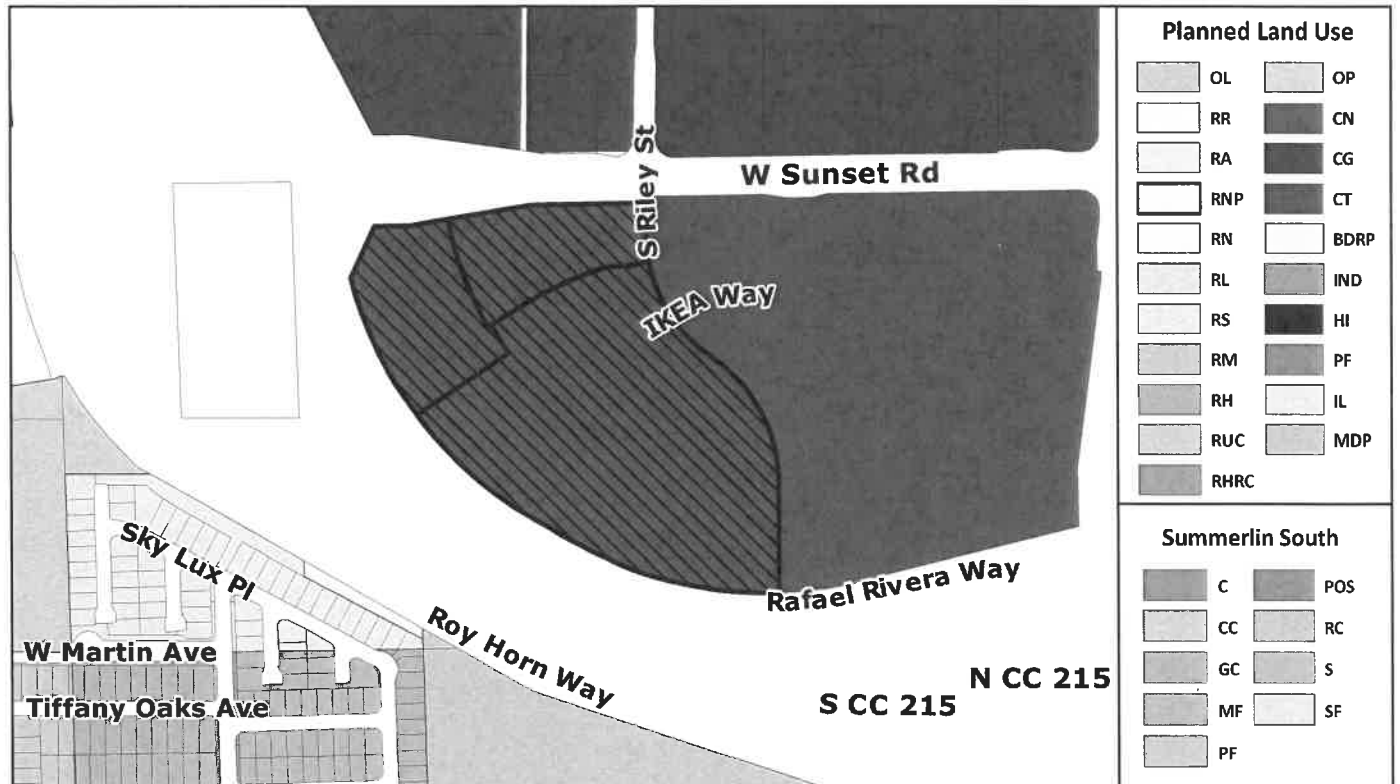
NZC-21-0038

ZONING

Clark County Department of Comprehensive Planning, Clark County, Nevada



PLANNED LAND USE



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

Subject Parcel(s)
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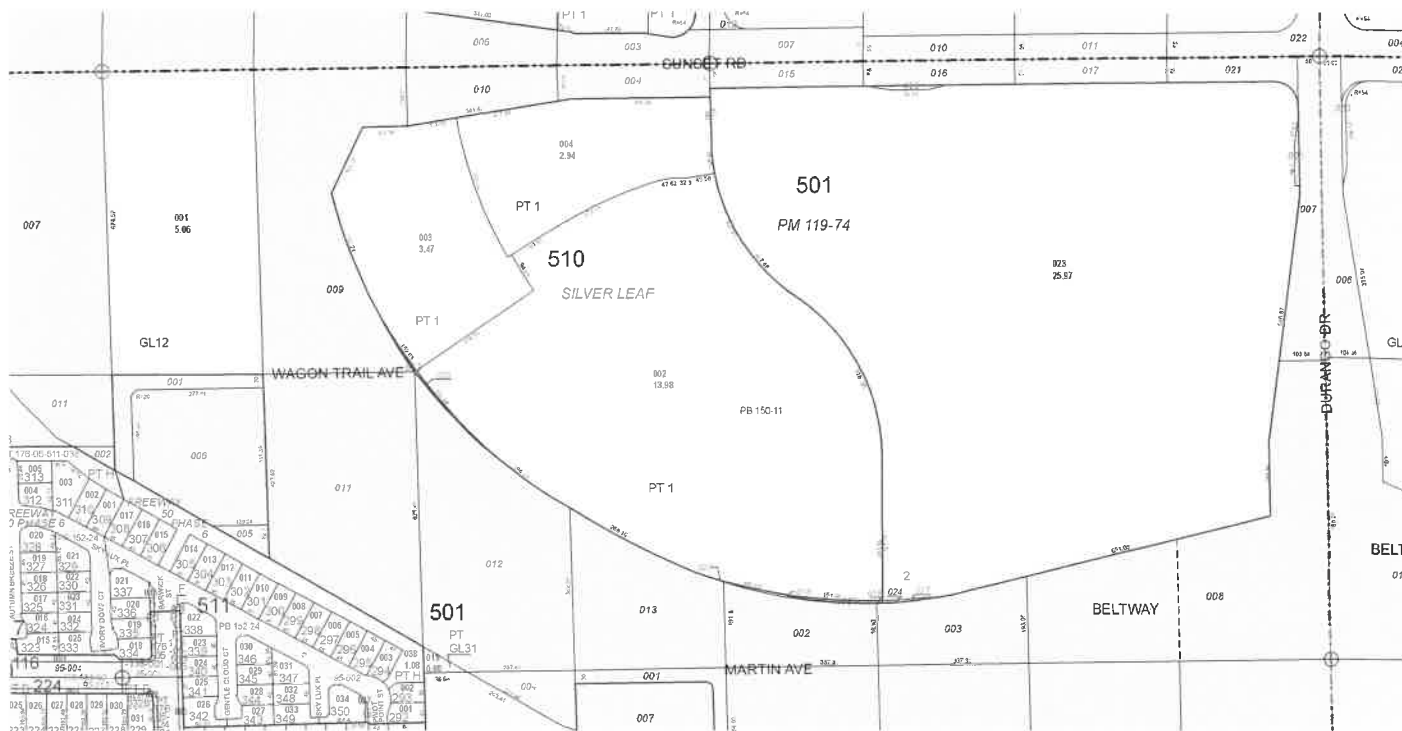


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Map Created on 3/23/2021



ORD-21-900581

NOTES This map is for assessment use only and does NOT represent a survey. No liability is assumed for the accuracy of the data delineated herein. Information on roads and other non-assessed parcels may be obtained from the Road Document Listing in the Assessor's Office. This map is compiled from official records, including surveys and deeds, but only contains the information required for assessment. See the recorded documents for more detailed legal information. USE THIS SCALE FEET WHEN MAP REDUCED FROM 11X17 ORIGINAL	MAP LEGEND --- PARCEL BOUNDARY --- SUB BOUNDARY --- PM/LD BOUNDARY --- ROAD EASEMENT --- MATCH / LEADER LINE --- HISTORIC LOT LINE --- HISTORIC SUB BOUNDARY --- HISTORIC PM/LD BOUNDARY --- SECTION LINE --- CONDOMINIUM UNIT --- AIR SPACE PCL --- RIGHT OF WAY PCL --- SUB-SURFACE PCL	ASSESSOR'S PARCELS - CLARK COUNTY, NV. Briana Johnson - Assessor		T22S R60E	5	N 2 NE 4	176-05-5																																																																				
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