City of Fernley

NEVADA

Members
Jenni McCullar - Chairwoman
Angela Lewis - Vice Chair
Barry Williams Sr. - Commissioner
Cody Wagner - Commissioner
Jacob VanderHeiden - Commissioner
Robert Flores - Commissioner
Tessa Garvin - Commissioner

AGENDA
Regular Meeting
Planning Commission
Wednesday, September 11, 2024 • 5:00 PM

Fernley City Council Chambers, 595 Silver Lace Boulevard, Fernley, NV 89408

Zoom information:
Please click the following link to join the webinar: https://us02web.zoom.us/j/82966343247, or one tap mobile: 12532158782, Dial: 669 900 9128, Webinar ID: 829 6634 3247

Public Notice: This agenda has been physically posted in compliance with 241.020 at Fernley City Hall, 595 Silver Lace Blvd. In addition, this agenda has been electronically posted in compliance with NRS 241.020(3) at www.cityoffernley.org and NRS 232.2175 at https://notice.nv.gov/ To obtain further documentation regarding posting, please contact the City Clerk's Office at (775) 784-9830 or cityclerk@cityoffernley.org

Public Comment: Those wishing to address the Planning Commission may submit public comment through the online public comment form, or by sending an email to cityclerk@cityoffernley.org. Comments received prior to 4:00 pm the day of the meeting will be provided to the Planning Commission and added to the record but will not be read during the live meeting. Public comments received after 4 pm the day of the meeting will be included in the record but may not reach commission members before action is taken. Public comment, whether on action items or public comment, is limited to three (3) minutes per person. Unused time may not be reserved by the speaker, nor allocated to another speaker. The public may comment on any matter that is not specifically included on an agenda as an action item or comment on a specific agenda item. Items not included on the agenda cannot be acted upon other than to place them on a future agenda. Additionally, if you wish you can comment in person at the meeting or use the Raise your Hand feature in Zoom (*9 if you are participating via phone).

Accommodations: The Planning Commission and staff will make reasonable efforts to assist and accommodate individuals with disabilities desiring to attend the meeting. Please contact the City Clerk's Office at (775) 784-9830 in advance so that arrangements can be made.

Supporting Material: Staff reports and supporting material for the meeting are available at the City Clerk's Office, and on the City's website at www.cityoffernley.org Pursuant to NRS 241.020(6), supporting material is made available to the general public at the same time it is provided to the City Council.

Order of Business: The presiding officer shall determine the order of the agenda. The Fernley Planning Commission may combine two or more agenda items for consideration; remove an item from the agenda; or delay discussion relating to an item on the agenda at any time. All items are action items unless otherwise noted. Items scheduled to be heard at a specific time will be heard no earlier than the stated time but may be heard later.

1. INTRODUCTORY ITEMS

1.1. Pledge of Allegiance

1.2. Roll Call

1.3. Public Forum

1.4. (For Possible Action) Approval of Agenda

1.5. (Possible Action) Approval of Minutes

2. STAFF REPORTS

3. GENERAL BUSINESS

4. PUBLIC HEARINGS

A. DISCUSSION WITH PLANNING COMMISSION & STAFF B. PUBLIC INPUT C. ADDITIONAL DISCUSSION WITH PLANNING COMMISSION & STAFF D. COUNCIL ACTION OR DIRECTION TO STAFF

4.1. (For possible action) Discussion and possible action to make a recommendation to Fernley City Council regarding Bill #354 as it pertains to a zoning map amendment (ZMA24003) submitted by Wood Rodgers on behalf of Douglass Development to request a zone change from Neighborhood Commercial (C1) to General Commercial (C2) on a parcel ±5.00-acres in size and generally located north of Farm District Road between Camille Drive and Jenny's Lane (APN: 020-351-08).

4.2. A workshop to review and discuss revisions to Chapter 32.3 (Administration) of the City of Fernley Development Code.

5. CHAIR AND COMMISSION ITEMS

(SUMMARY OR ACTIVITY REPORTS ON PLANNING ISSUES, ACTIVITIES OR ORGANIZATIONS IN WHICH INDIVIDUAL MEMBERS MAY BE INVOLVED. THIS ITEM IS TO PROVIDE GENERAL INFORMATION TO THE COMMISSION AND PUBLIC. NO DISCUSSION SHALL TAKE PLACE AND NO ACTION WILL BE TAKEN.)

6. PLANNING DIRECTOR ITEMS

(ACTIVITY SUMMARY OR UPDATES ON PROJECTS THAT HAVE BEEN PREVIOUSLY REVIEWED BY THE PLANNING COMMISSION. THIS ITEM IS TO PROVIDE GENERAL INFORMATION TO THE COMMISSION AND PUBLIC. NO DISCUSSION SHALL TAKE PLACE AND NO ACTION WILL BE TAKEN.)

7. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS

8. PUBLIC FORUM

9. ADJOURNMENT

Next Meeting: October 9th at 5pm

MINUTES OF THE
FERNLEY PLANNING COMMISSION MEETING
AUGUST 14, 2024

Chairwoman Jenni McCullar called the meeting to order at 5:00 pm.

1. INTRODUCTORY ITEMS

1.1. Pledge of Allegiance

1.2. Roll Call

Present: Chairwoman Jenni McCullar, Vice-Chair Angela Lewis, Commissioner Barry Williams, Sr., Commissioner Cody Wagner, Commissioner Robert Flores, Commissioner Tessa Garvin, Commissioner Jacob VanderHeiden (Zoom), Deputy City Clerk, Brenda Gosser, Administrative Specialist 1 Sandy Harris, City Attorney Aaron Mouritsen, Deputy City Manager Lydia Altick, Planning Director Michele Rambo, Senior Planner Shay League.

1.3. Public Forum

None at this time.

1.4. (For Possible Action) Approval of Agenda

Motion: I MOVE TO APPROVE TONIGHT'S AGENDA WITH ITEM 4.1 MOVED TO AFTER 1.5 AND BEFORE 2.1**. Action**: Approved**. Moved by:** Commissioner Cody Wagner, **Seconded by:** Commissioner Tessa Garvin. **Vote:** Passed**, Summary**: Yes 7**. Yes:** Commissioner Williams, Chairwoman McCullar, Vice-Chair Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Commissioner Garvin.

1.5. (Possible Action) Approval of Minutes

Motion: I MOVE TO APPROVE THE MINUTES FROM JULY 10, 2024**. Action**: Approved. **Moved by:** Commissioner Robert Flores, **Seconded by:** Vice-Chair Angela Lewis. **Vote:** Passed, **Summary:** Yes 7. **Yes:** Commissioner Williams, Chairwoman McCullar, Vice-Chair Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Commissioner Garvin.

2. STAFF REPORTS

2.1. A presentation of public online survey results gathered as part of the North Fernley and Southwest Fernley Area Plan process.

Planning Director Rambo presented the results of a survey that was put online for the public as part of the development of the North Fernley Area Plan and the Southwest Fernley Area Plan. The survey was made available to the public from January 2024 to May 2024. Questions in this survey focused on what the public likes about Fernley, what types of development they would like to see in the future, and what features the public would like to see preserved. She also discussed some of the underlying implications that will help guide the development of both Area Plans.

3. GENERAL BUSINESS

3.1. (For possible action) Discussion and possible action regarding a partial relinquishment of an easement due to erroneous description indeed.

Aaron Mouritsen, City Attorney, stated this item involves a property that is located over where the Walmart area is. What occurred on this property was, it was originally deeded back in 1981, and as part of that along the south border of the property there's a 35-foot utility easement, and this is for the city and for other utilities to be able to access and place power lines or water pipes or anything else that was needed for the city. In 1990, this property was re-deeded, and likely due to a scrivener's error, that 35-foot easement was then listed as a 50-foot easement. If we look at all the properties along that same row, each of them was also deeded at some point in time, and each of them includes only a 35-foot utilities easement. How it goes right now is there's 35-feet, 35-feet, 35 feet, and then this property jumps up to a 50-foot utility easement, and then the next property bumps back down to a 35-foot utility easement. We are looking to correct that error and reduce that utility easement from a 50-foot easement down to a 35-foot easement in order to be correct, and not limit the use of what the property owner can't and can do with that property. Bob Bennett, who is the attorney for the property owner, pointed out that Southwest Gas and NV Energy also have some rights to this utility easement, and both have also agreed to vacate that additional 15-feet as well.

Motion: I MOVE THE CITY OF FERNLEY, HEREBY PERMANENTLY AND IRREVOCABLE, PARTIALLY ABANDON, RELINQUISH AND TERMINATE THE GRANT OF A 50-FOOT EASEMENT, AS SET IN DEED DOCUMENT NUMBER 137069 AND RETAINS PERMANENTLY AND IRREVOCABLY A 35-FOOT UTILITY EASEMENT ALONG THE SOUTHERN BORDER OF SAID PROPERTY BEING ASSESSORS PARCEL NUMBER 021-232-06 THE COMPORT WITH UTILITY EASEMENT SET FORTH ON PARCEL MAP REPORTED JANUARY 29, 1981, DOCUMENT NUMBER 8374 BEING A 35-FOOT UTILITY EASEMENT**. Action:** Approved. **Moved by:** Commissioner Cody Wagner**, Seconded by**: Vice-Chair Angela Lewis. **Vote:** Passed, **Summary:** Yes 7. **Yes:** Commissioner Williams, Chairwoman McCullar, Vice-Chair Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Commissioner Garvin.

3.2. Presentation by Kimley-Horn on the status of both the North Fernley and Southwest Fernley Area Plans.

Michele Rambo, Planning Director, introduced Blake Young to present the current status of the area plans. Mr. Young presented via Zoom. This item was continued from the July 10, 2024, Planning Commission meeting,

Blake Young, Project Manager for Kimley-Horn, reported that they have been working on the development of the North Fernley and Southwest Fernley Area Plans for the past several months. A draft land use plan of the North Fernley Area Plan has been completed and reviewed by property owners and other stakeholders of the area. Other portions of the plan documents are also underway with drafts expected to be done soon. The North and the Southwest area plans consist of the assessment of existing conditions and then a summary of the community engagement and stakeholder workshops, then finally the implementation of the plan. These are essentially some goals and policies in order to implement this vision that's set forth in this plan. Simultaneously, we are working through the design guidelines. The design guidelines will ensure a consistent look and feel throughout all the city's area plans. This includes the North, the Southwest, and the South area plan that has yet to be started. The design guidelines are essentially a visioning document for the overall look and feel, overall goals and vision for the design and aesthetic of the development. Standards would be the City of Fernley's municipal code and development code.

Chairwoman McCullar called for a recess - 6:09 pm - 6:14 pm

Director Rambo and Blake Young addressed concerns from the Planning Commissioners.

Chairwoman McCullar called for public comment.

Derek Kirkland, Wood Rogers, representing the BC Ranch owners on the west side across from the High School. The BC Ranch was approved back in 2005, have been working to try to build residential and other stuff over there for the past 20 plus years. There are a lot of infrastructure issues in this area and there hasn't been a huge demand for housing. BC Ranch stated there is too much residential as part of the plan. Mr. Kirkland stated the BC Ranch owners have a different plan. They would like to see more industrial come down towards BC Ranch. A lot of comments on the airport having too much residential around the airport was also a concern that was brought up at a stakeholder meeting. Mr. Kirkland stated the stakeholders are not 100% behind this plan yet and want to have a chance to continue to have some conversations and work through some of that.

3.3. (For possible action) Discussion and possible action regarding a waiver application (WVR24001) to waive curb/gutter/sidewalk, parking, and landscaping development standards on a parcel zoned Neighborhood Commercial (C1), ±5,892-square-feet in size, and located at approximately 45 HWY 95A (APN: 020-041-57) within the downtown waiver area.

Shay League, Senior Planner, presented. On July 3, 2024, Fernley City Council approved a new process that allows the waiver of certain development standards at the discretion of the Planning Commission. The intent of the new waiver process is to provide relief and flexibility in the development review process with respect to specific areas of Fernley that have significant constraints that hinder development/redevelopment. This parcel is a substandard development, meaning that it is legally nonconforming but does not comply with our current development code. Due to improvements required by the Development Code for any intensification of use because of the substandard development, the property owner is having difficulty not only with the associated expense, but this lot is relatively small and does not appear to have enough room to meet current landscape and parking requirements. Staff is recommending this item be approved, but also to condition it upon repairing some of the existing landscaping because this building has been vacant for so long. There are some weed issues.

Commissioner Garvin stated that there should be a condition to the landscaping.

Jessica McGreevy stated that she agrees with the condition of making the building presentable.

Motion: I MOVE TO APPROVE THE WAIVER APPLICATION ASSOCIATED WITH WVR24001 AND ADOPT FINDINGS A THROUGH E AS LISTED IN THE STAFF REPORT. I FURTHER MOVE TO REQUIRE THE PROPERTY OWNER TO RESTORE THE PREVIOUSLY LANDSCAPED AREAS TO THE APPROVAL OF THE PLANNING DIRECTOR (OR DESIGNEE) WITHIN ONE YEAR OF THIS APPROVAL, OR THE WAIVER OF DEVELOPMENT STANDARDS SHALL BE FORFEITED**. Action:** Approved**. Moved by:** Vice-Chair Angela Lewis, **Seconded by:** Commissioner Tessa Garvin**. Vote**: Passed**, Summary:** Yes 7**. Yes:** Commissioner Williams, Chairwoman McCullar, Vice-Chair Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Commissioner Garvin.

4. PUBLIC HEARINGS

4.1. (For possible action) Discussion and possible action to make a recommendation to Fernley City Council regarding Bill #354 as it pertains to a zoning map amendment (ZMA24003) submitted by Wood Rodgers on behalf of Douglass Development to request a zone change from Neighborhood Commercial (C1) to General Commercial (C2) on a

parcel ±5.00-acres in size and generally located north of Farm District Road between Camille Drive and Jenny's Lane (APN: 020-351-08).

Shay League, Senior Planner, suggested that, given the interest of the public in this specific project, the developer decided to have a neighborhood meeting to discuss it more personally.

Erik Hasty, Wood Rogers, representing the applicant, stated that they will be hosting a neighborhood meeting on August 27th and would like to have this item be continued to the September Planning Commission meeting. Notices were sent today to everybody within the 500-foot radius. They also pushed that out to 750 feet to include 121 notices to invite everybody to this neighborhood meeting at The Golf Club at Fernley, 5:30pm to 6:30 pm, August 27th. Additional invitations were provided to the Clerk with contact information for anybody who might request it.

Commissioner Tessa Garvin asked that a flash news be sent so everyone that would want to also attend has the information.

Commissioner Cody Wagner clarified the difference between C1 & C2, and that manufactured/mobile homes are allowed in both C1 and C2.

Chairwoman Jenni McCullar opened the meeting for a public hearing:

Blake, Fernley resident, expressed concern that if this is set as C2 and the project falls through, what happens? He doesn't think it is appropriate for the neighborhood.

Becki Howlett, Fernley resident, stated that she does not feel a mini-storage is appropriate for the area.

Ancil Christopher, Fernley resident, stated that businesses like storage units don't do much for the community as far as keeping the money in Fernley. This isn't something that they're employing people with. It's not bringing additional work to the community and all the money is just being shipped out. We need to bring in businesses that are going to keep money in the community.

Jamie Shipley, Fernley resident, thanked Commissioner Wagner for clarifying some of the questions and the developers for coming up with a neighborhood meeting.

Aaron Schulman, Fernley resident, stated he appreciates the fact of the residential side being the residential side and the business side being the business side. He doesn't want that mixture to affect the family nature and the family atmosphere, especially with the bike path that was created. He has a pedestrian bike path directly behind his house, and there are a lot of people that enjoy that both from our neighborhood and from the surrounding neighborhoods as well. He feels like there could be a level of security that could change if there happens to be some type of business entity that moves within this property, and with that lack of security it affects the family dynamic, and that's what he would prefer not to see.

Andrew Bartell, Fernley resident, expressed his concern about the traffic, the lighting of the facility and the security aspect of the facility violating neighbors. He is concerned about when the pond fills up, where the water is going to go.

Commissioner Cody Wagner stated that it's always good to see civic engagement, and thought everyone who spoke was very well-spoken, and kept their emotions out of it. He really hopes, through this neighborhood meeting, that maybe some kind of deal can be reached that appeases the residents around there.

Motion: I MOVE TO TABLE IS ITEM UNTIL THE NEXT MEETING. **Action**: Approved. **Moved by:** Commissioner Cody Wagner, **Seconded by:** Vice-Chair Angela Lewis**. Vote:** Passed, **Summary:** Yes 7. **Yes**: Commissioner Williams, Chairwoman McCullar, Vice-Chair Lewis, Commissioner Wagner, Commissioner VanderHeiden, Commissioner Flores, Commissioner Garvin.

5. CHAIR AND COMMISSION ITEMS

Vice-Chair Angela Lewis requested that if there is a presentation by someone that is not present, can the presentation be emailed so they can follow along.

6. PLANNING DIRECTOR ITEMS

Michele Rambo, Planning Director, stated that there is an open house scheduled for the Southwest Area Plan on September 12th, 5:00 pm to 6:30 pm. The flyer invitation for that will be going out in the next day or two. The Planning Department received 6 new applications on Tuesday, August 13th.

7. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS

None at this time.

8. PUBLIC FORUM

None at this time.

The next meeting will be September 11, 2024.

9. ADJOURNMENT

There being no further business to come before it, the Fernley Planning Commission meeting adjourned at 6:39 pm.

Approved by the Fernley Planning Commission on September 11, 2024, by a vote of:

AYES _____ NAYS:_____ ABSTENTIONS:_____ ABSENT:_____

_____ _____

Chairwoman Jenni McCullar ATTEST:

CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: September 11, 2024

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Shay League**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: X	Yes:	No: X	N/A

ACTION REQUESTED: Motion

AGENDA ITEM:

(For possible action) Discussion and possible action to make a recommendation to Fernley City Council regarding Bill #354 as it pertains to a zoning map amendment (ZMA24003) submitted by Wood Rodgers on behalf of Douglass Development to request a zone change from Neighborhood Commercial (C1) to General Commercial (C2) on a parcel ±5.00-acres in size and generally located north of Farm District Road between Camille Drive and Jenny's Lane (APN: 020-351-08).

AGENDA ITEM BRIEF:

The designated land use for this parcel is Commercial (C). Both the current C1 and the proposed C2 are equivalent zoning districts of C.

RECOMMENDED MOTION:

If the Planning Commission agrees with the premise that the "mini-warehouse" use is appropriate in the C1 zone, staff recommends the following language:

"I move to recommend City Council approve the zoning map amendment subject to the conditions suggested in the staff presentation. I further move to direct staff to rewrite Bill #354 as presented to incorporate the conditions recommended to Council by this body."

BUSINESS IMPACT (per NRS Chapter 237):

A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

If Planning Commission disagrees with the premise that the "mini-warehouse" use is appropriate in the C1 zone, staff recommends the following language:

"I recommend City Council deny Bill #354 and the zoning map amendment request associated with ZMA24003 because I am unable to make the required finding b. I am unable to make the required finding b because the uses permitted in the C2 zone, including "mini-warehouse", are generally incompatible with single-family and rural residential neighborhoods."

Note: Though no further language has been provided, all motions consistent with Planning Commission bylaws and rules of procedure are appropriate.

BACKGROUND:
In April 2005, City of Fernley approved a 10-acre project named "Farm District Commercial" that allowed the uses retail, office, and restaurant. Though infrastructure for this project was constructed east of Jenny's Lane at Farm District Road, the project was ultimately abandoned due to the recession of 2008. The initial project approval is long expired. The current applicant, Douglass Development, purchased this 5-acre portion of the former project in May of 2023; the remaining 5-acres of the former project are owned by a separate investor. All 10 acres of this former project, to include the applicant's 5-acre parcel, are zoned C1. The applicant is requesting to rezone their 5-acre parcel from C1 to C2. The land use designated in Fernley's Master Plan is Commercial (C).

Uses permitted in the C2 zone that are not permitted in the C1 zone are as follows: Halfway house, Bed and breakfast, Hotel/motel, Recreational vehicle park, Payday loan establishment, Title loan establishment, Pawnbroker, Call center, Bail bond services, Equipment sales and rentals, Travel center, Vehicle sales, Crematorium, Event center / banquet hall, Hospital, Medical marijuana establishment, Non-restricted gaming establishment, Major recreational facility, Data processing / hosting and related services (including data centers), Medical production, Craftwork production, Building and landscape materials supplier, Building maintenance services, Mini-warehouse (self storage), Outdoor storage, Heliport/miscellaneous air transportation, and Parking facility.

Uses that only require an administrative review (approved by staff) in the C2 zone versus a conditional use permit (approved by the Planning Commission) in the C1 zone are as follows: Overnight and/or outdoor animal services, Bar/lounge, Liquor store, Courier and messenger services, Maintenance and repair services, Light auto and truck repair, Car wash, Gas station, Vehicle rentals, Entertainment facility / theater, and Minor recreation facility.

ANALYSIS:
Staff contends that a zoning map amendment from C1 to C2 is not appropriate for this site given that it is located within a residential area. The applicant contends that the "mini-warehouse" use should be approved because it should be allowed within the C1 zone due to minimal impacts on the neighboring residences. Staff can support this concept if Planning Commission and Council agree that inclusion of the "mini-warehouse" use within the C1 zone is appropriate. Staff is willing to support the change because many of the residents directly adjacent to the site indicated at the neighborhood meeting that they would prefer self-storage on this parcel as opposed to other uses currently permitted in the C1 zone and pretty much all additional uses that would be permitted in the C2 zone.

The "mini-warehouse" use is not currently permitted within the C1 zone, so a zoning map amendment is still necessary for this project to move forward without first completing a code amendment. If Planning Commission and Council desire a quick approval for this project, staff advises an interim measure whereby the zoning map is

approved but is also conditioned to only allow the "mini-warehouse" use.

FINDINGS:

a. Consistent with the city's master plan and otherwise consistent with state and federal law.

This finding can be made. The proposed zone (C2) is an equivalent zoning district of the master plan's Commercial (C) designated land use. The applicant suggests that the proposed zone change supports the master plan community goals and action strategies regarding Land Use (LU) listed below and staff concurs.

LU.1.1 - Encourage new development in areas where adequate public services and facilities can be provided efficiently.

This would be infill development in an existing neighborhood. Adequate public services and facilities already exist in the area.

LU. 1.2 - Encourage new development to be in accordance with the Comprehensive Master Plan land use category.

As previously mentioned, the proposed C2 is an equivalent zoning designation of the C designated land use.

b. Consistent with the surrounding land uses.

This finding may not be made for a zoning map amendment from C1 to C2. The uses permitted in the C2 zone are generally incompatible with single-family and rural residential neighborhoods. The C2 zone should be limited to commercial sites that are adjacent to buffering uses such as neighborhood commercial or multi-family residential.

In Fernley Municipal Code, the concept of intensity refers to density of the use as well as the possibility for unwanted externalities such as noise generation, air pollution, traffic, and similar. To give an idea of scale, for all zones in Fernley (not just the ones permitted in the Commercial designation), Open Space and Parks is the zone considered least intensive and Industrial is the zone considered most intensive.

Here are some examples of uses permitted in C2 and why they may have been considered more intensive than those permitted in C1 by the author of our municipal code :

- Data processing typically generates a lot of noise due to the equipment required to cool the servers stored in a data center.
- An event center can attract a large amount of traffic at one time and events often generate a lot of noise.
- A self-storage facility or vehicle sales are generally unattended, low-traffic uses that interrupt neighborhood connectivity. Pedestrians generally feel safer when neighboring commercial uses attract some traffic, rather than when neighboring uses receive almost zero use and are often empty.
- A crematorium may create air pollution and some residents may find death-related services uncomfortable near their residences.

This finding can be made if the desire is to make a future change to Fernley Municipal Code to allow the use "mini-warehouse" in the C1 zone. If that desire exists, then staff advises that conditions be appended to the zoning map amendment to ensure this parcel can only be developed as a self-storage. Staff will also construe this as direction to consider self-storage for inclusion in the C1 code through our ongoing municipal code rewrite. Ultimate adoption of the rewritten code is still at the discretion of Council by recommendation of Planning Commission.

c. Public notice was given, and a public hearing held per the requirements of the Development Code and Nevada Revised Statutes.

This finding can be made. Staff certifies that public notice was given in accordance with Title 32 of Fernley Municipal Code and Nevada Revised Statutes and a public hearing was held as part of the proceedings of the

August 14, 2024, Planning Commission meeting. A public notice was placed in the July 28, 2024, edition of the Reno Gazette Journal and 71 individual letters were mailed to all homeowners and renters within a 500-foot radius of the subject parcel.

At the August 14, 2024, meeting, this item was continued in order to organize a neighborhood meeting for the developer to be able to hear and address concerns from neighboring property owners. The continuation of this item serves as the public notice for the September 11, 2024 meeting, and staff will ensure a public hearing is held at this meeting also.

SUGGESTED CONDITIONS:
At the time of publishing this report, staff and the developer have not yet agreed upon language for the conditions to govern this zoning map amendment. To be clear, the conditions will have nothing to do with the form and function of the proposed self-storage; those will be addressed during the conditional use permit application process. This is an artifact of trying to work with our code to allow approval if Planning Commission and Council decide to move forward in that direction.

The primary disagreement is whether the zone change should take place upon approval of the zoning map amendment ordinance and expire with the conditional use permit, or if the zone change should only take place upon issuing the building permit and beginning construction. The applicant is concerned that a future argument might be made by the City that we will not issue a building permit because we can't issue a building permit if the zone is still C1. That would leave them vulnerable to no longer being able to build after they have already gone through the immense expense of fully designing and appropriately permitting this project. City staff is concerned that allowing an immediate zone change may grant vested rights to the applicant. This would leave the City vulnerable to the possibility of a project not being presented and the possibility of a future property owner being able to claim a vested right to build anything in the C2 zone. The C1 zone of this lot, and of the "parking lot" east of Jenny's, are an example of a vested right these parcels carry from the last development that was approved in 2005.

To be clear, there is no animosity, staff and the applicant just need a little more time to get it right. We look forward to bringing forward a suggested condition (or conditions) of approval to the meeting itself. Should that not happen, and should Planning Commission wish to approve this item, then staff recommends Planning Commission continue this item until appropriate conditions of approval are agreed upon.

RELEVANT LAWS, STATUTES, AND REGULATIONS:

General
Nevada Revised Statutes (NRS) Chapter 278 - Planning and Zoning
Fernley Municipal Court (FMC) Title 32 - Development Code
City of Fernley Comprehensive Master Plan

Specific
NRS §278.260 - Determination, establishment, enforcement and amendment of zoning regulations...
FMC §32.03.040(e) - Zoning map amendments (rezoning)
FMC §32.06.100 - Zoning Districts, Commercial (C1, C2, and TC)
FMC §32.06.150 - Unlisted uses and use table

Note: These links are for quick reference and not all-inclusive. Planning Department will monitor these references through the September 11, 2024, Planning Commission meeting, but does not guarantee link operation or applicability after that date.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Bill #354 for ZMA24003
2. Applicant Report
3. Traffic Generation Letter
4. Maps

When recorded, mail to:
City Clerk
City of Fernley
595 Silver Lace Boulevard
Fernley, NV 89408

BILL # 354

CITY OF FERNLEY

ORDINANCE # _____

A GENERAL ORDINANCE FOR A ZONING MAP AMENDMENT, ASSOCIATED WITH ZMA24003, TO CHANGE THE ZONING OF ±5.00-ACRES GENERALLY LOCATED NORTH OF FARM DISTRICT ROAD BETWEEN CAMILLE DRIVE AND JENNY'S LANE (APN: 020-251-08) FROM C1 (NEIGHBORHOOD COMMERCIAL TO C2 (GENERAL COMMERCIAL).

THE CITY COUNCIL OF THE CITY OF FERNLEY, hereinafter "the Council", DO HEREBY ORDAIN:

Section 1: The zoning of that certain real property totaling 5.00 acres, more or less, situated in the City of Fernley, Nevada, being more particularly described on Exhibit "A" attached hereto and depicted on "Exhibit A-1" attached hereto is hereby reclassified from C1 (Neighborhood Commercial) to C2 (General Commercial).

SECTION 2: The zoning map of the City of Fernley is hereby amended in accordance with the zoning map amendment herein.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law and to record the plan certified herein as provided by law.

SECTION 5: This ordinance shall become effective upon passage, approval, and publication.

SECTION 6: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

SECTION 7: If any subsection, phrase, sentence or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 8: The Council finds that this ordinance is not likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

BILL # 354 BEING HEREBY PROPOSED this _____ day of _____, 2024.

BILL # 354 BEING HEREBY PASSED, APPROVED and ADOPTED this _____ day of

_____, by the following vote of the Council:

Ayes: _____ Nays: _____ Abstentions: _____ Absent: _____

FERNLEY CITY COUNCIL

By: _____ Date: _____
Neal E. McIntyre, Mayor

Attest By: _____ Date: _____
Kim Swanson, City Clerk

EXHIBIT A
LEGAL DESCRIPTION FOR
APN: 020-351-08

All that certain real property within a portion of the Northeast One-Quarter (NE 1/4) of Section Nineteen (19), Township Twenty (20) North, Range twenty-five (25) East, M.D.M., City of Fernley, County of Lyon, State of Nevada, being Lot 1 as shown on the Official Map of "Flying Circle Ranch Estates" Subdivision Map No.39323, recorded August 2, 1978 filed in the Official Records of Lyon County, Nevada, being more particularly described as follows:

BEGINNING at the Northeasterly corner of said Lot 1, also being the Westerly right-of-way of Jennys Lane.
THENCE along said right-of-way South 01°06'26" West a distance of 299.55 feet to the beginning of a tangent curve to the right;
THENCE 31.58 feet along the arc of a 20.00 foot radius curve to the left through a central angle of 90°28'00" to the Northerly right-of-way of Farm District Road;
THENCE along said right-of-way North 88°25'34" West a distance of 667.41 feet to the Westerly line of said Lot 1;
THENCE along said Westerly line North 01°06'26" East a distance of 314.11 feet to the Southerly right-of-way of George Lane per the Parcel Map for "Michael & Claudia Casey", Parcel Map No. 184049, recorded on July 19, 1995, filed in said Official Records;
THENCE along said right-of-way South 88°53'34" East a distance of 687.55 feet to the **POINT OF BEGINNNG**.

Containing 5.00 acres of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94-HARN). All dimensions shown are ground distances. Grid To Ground Combined Factor = 1.000245

Prepared by:
Wood Rodgers, Inc.
1361 Corporate Blvd.
Reno, NV 89502

6/17/24

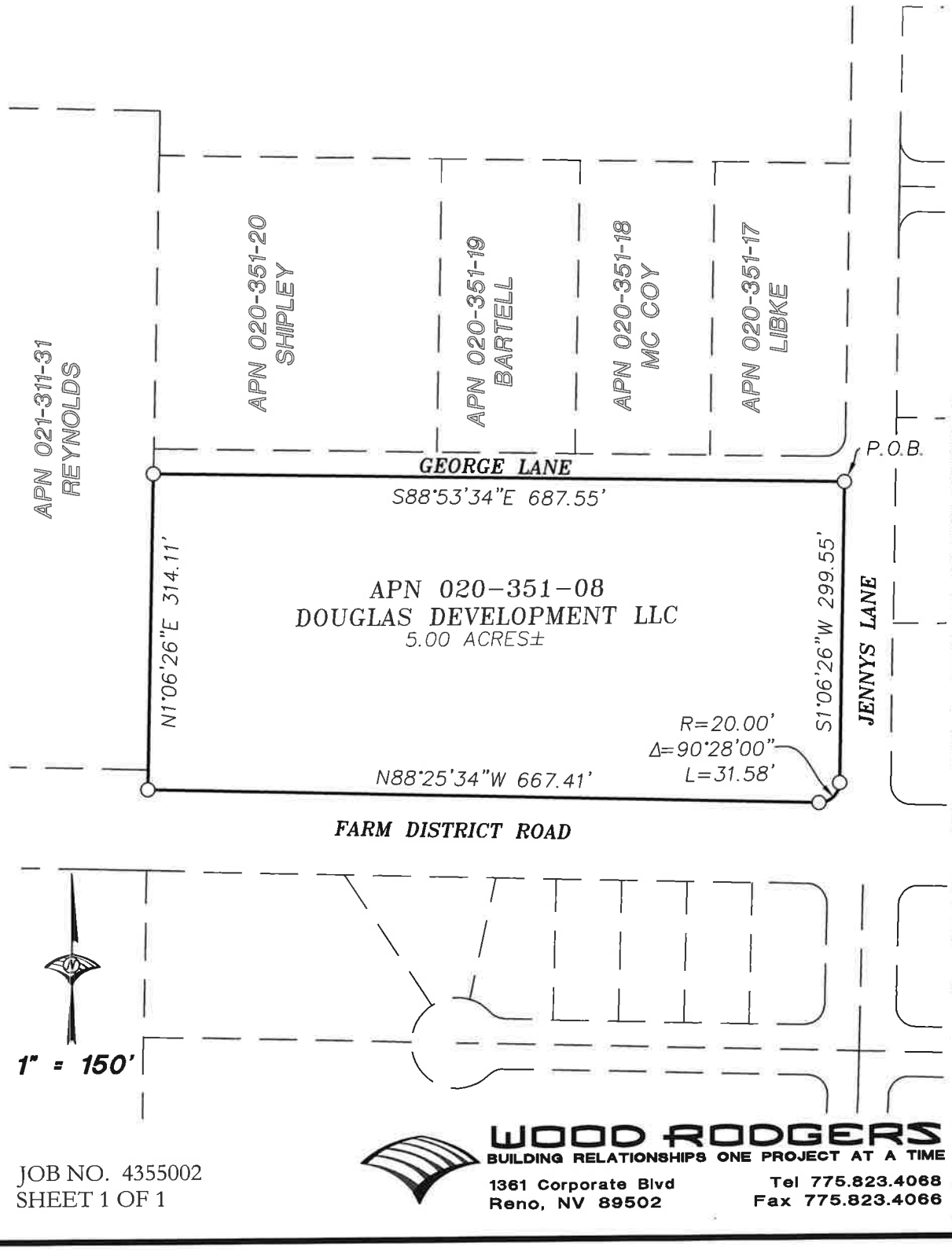
Eric C. Sage, P.L.S.
Nevada Certificate No. 23301

EXHIBIT A-1

PLAT TO ACCOMPANY

APN: 020-351-08

BEING A PORTION OF THE NE 1/4 OF SECTION 19
TOWNSHIP 20 NORTH, RANGE 25 EAST, M.D.M.
CITY OF FERNLEY LYON COUNTY NEVADA



JOB NO. 4355002
SHEET 1 OF 1

WOOD RODGERS
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Tel 775.823.4068
Fax 775.823.4066

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PROJECT SUMMARY

Project Name:	Farm District Storage Zoning Map Amendment and Conditional Use Permit
Site Location:	The subject parcel is 5.0± acres in size located at the northwest corner of Farm District Road and Jennys Lane in Fernley, Nevada
APN Numbers:	020-351-08
Applicant:	Dan Douglass
Applicant's Representative:	Wood Rodgers, Inc.; Eric Hasty
Owner:	Douglass Development LLC
Proposed Action:	This is a request for: 1) A zoning map amendment on parcel APN 020-351-08 (±5.0 acres) from Neighborhood Commercial (C1) to General Commercial (C2), and 2) A Conditional Use Permit (CUP) for a ±95,633 square foot mini-warehouse/office facility
Land Use Classification:	Commercial (C)
Current Zoning:	C1
Proposed Zoning:	C2
Flood Zone Designation:	Zone X
Gross Site Area	5.0± acres

PROJECT ANALYSIS

Background and Existing Conditions

The 5.0± acre parcel (APN 020-351-08) is located at the northwest corner of Farm District Road and Jennys Lane (project site) on vacant land with utilities adjacent to the property. The subject site has been master planned and zoned commercial for the past two decades. The adjacent parcel to the east had an active commercial development at one point prior to the recession, and still has some improvements that remain on the site. Jennys Lane, located along the eastern boundary, is paved and will provide access into the site. George Lane is a dirt road to the north of the site and separates the site from existing residential (refer to Vicinity and Aerial Maps in Section 2 of this submittal packet). Fernley continues to see growth and specifically along Farm District Road there has been a recent increase in housing development. As the housing demand increases the need for personal storage also increases. Personal storage is typically a great commercial neighbor adjacent to residential given the low traffic generation, typically quiet facilities, and tend to be low impact compared to other commercial uses. Given their low impact, most jurisdictions allow them to be located in neighborhood commercial areas (C1 zoning equivalent in Fernley) similar to the project site. However, City of Fernley code limits their use to general commercial (C2) zoning with a Conditional Use Permit (CUP). As the project site is zoned C1, the applicant is providing both the zoning map amendment to C2 and the CUP for the proposed personal storage use.

Project Request
This application requests to:

1) Change the zoning of ±5.0 acres of APN 021-351-08 from Neighborhood Commercial (C1) to General Commercial (C2).
2) Approve a Conditional Use Permit (CUP) for a ±95,633 square foot mini-warehouse/office facility on APN 021-351-08.

Comprehensive Master Plan and Zoning Designations
The subject parcel has a Comprehensive Master Plan (Master Plan) designation of Commercial (C) and a zoning designation of Neighborhood Commercial (C1). The Master Plan designation of Commercial would allow for the proposed C2 as a compatible zoning designation. The proposed C2 zoning would allow the proposed personal storage facility included in the CUP portion of this application, which are less intense than some of the uses that are currently allowed within the C1 designation. The majority of higher intense uses in both C1 and C2 would require a CUP and given the surrounding area would require residential adjacency standards to be met. Therefore, the proposed C2 zoning would remain compatible with the other surrounding zoning designations (refer to Master Plan and Existing Zoning Map in Section 2 of this submittal packet).

Surrounding properties and uses	Current Zoning District	Comprehensive Plan Land Use Designation
North Single family detached	RR1	Single Family Residential (SFR)
West Single family detached	RR1	Single Family Residential (SFR)
East Vacant Commercial	C1	Commercial (C)
South Rural residential, single family detached subdivision	RR5, SF20, SF6	Single Family Residential (SFR)

Zoning Map Amendment Justification
The proposed zoning of C2 is allowed within the subject parcel's Master Plan designation of Commercial (C). The proposed change from C1 to C2 will maintain conformance with the Master Plan and will allow for the proposed personal storage facility in an area where adequate public services and facilities can be provided efficiently.

Most of the uses that would be allowed in the C2 zoning designation are already allowed in the current C1 zoning. While the C2 zoning will allow some additional commercial uses when compared to C1, most of these uses would not fit within the project site due to the size constraints and residential adjacency standards that would apply to the project site. Specifically, the residential adjacency standards, which include a one-foot setback for each foot in building height adjacent to a residential use applies to the north, and west boundary of the project site, which will limit the amount of developable land even further. Finally, a majority of the uses that are associated with the C2 zoning would require a Conditional Use Permit (CUP) prior to approval further ensuring that any future use would be compatible with the

surrounding uses. It should also be noted that there are some uses only allowed in the C2, such as personal storage, that are less intense than many of the uses permitted by right in the C1 zoning.

The proposed zoning map amendment is being submitted with the CUP request to allow a mini-warehouse/personal storage facility on the project site, and is further detailed below.

CONDITIONAL USE PERMIT ANALYSIS

Overview

The current request is to develop a personal storage facility with ±94,433 square feet of storage space enclosed within the personal storage buildings and one office building (±1,200 square feet) with supporting on site improvements. Pending the proposed zoning map amendment, the regulatory zoning within the project site is General Commercial (C2) allowing for a personal storage facility with a CUP. There are no existing structures on the site. Proposed improvements include site access, drainage and grading improvements, and the extension of utilities including water, sewer and electric to the development from the adjacent roadways. Primary access to the site will be provided via gated entry from Jennys Lane, and gated emergency access will be provided from Farm District Road. All interior drive aisles will be a minimum of 24 feet wide.

As the proposed development will be adjacent to existing single-family residences to the north and west, the buildings will be screened according to the design standards of Section 32.06.100 of the Zoning Code. The facility will serve as a buffer between Farm District Road, an arterial roadway, and the residences to the north and west. The parcels east of the project site are undeveloped and zoned for commercial uses. The subdivision to the south is separated from the proposed project by Farm District Road and will be further screened by proposed landscaping along the project's street frontage.

Conditional Use Permit: Site Plan Design Standards

The site plan has been designed to comply with the standard requirements of the C2 zoning district (pending approval of zoning map amendment). The project parcel is greater than the required 6,000 square foot minimum lot size and 50-foot minimum lot width. All building heights and setbacks will conform with the development standards of the C2 zone.

Building Design

The proposed project includes a mix of ±94,433 square feet of personal storage space with varying sizes subject to change and a ±1,200 square foot office. There will not be a facility manager who lives on-site, the manager will only be present during office hours. The buildings along the southern boundary will be setback 45-feet from Farm District Road and the buildings along the eastern boundary are proposed to be setback 8-feet from the property line along Jennys Lane which is in accordance with the C2 zoning designations. The buildings along the north and west boundary are setback 10-feet from the property line to accommodate the residential adjacency setbacks which require one foot of setback for every one foot of building height adjacent to residential.

The buildings are proposed to be a mix of materials and colors that will meet the building design standards outlined in Section 20.02.007 of the Fernley Municipal Code. This will include a combination of horizontal, diagonal, and vertical articulation with a combination of popouts, staggered parapets,

horizontal and vertical wall offsets, use of different colors, and material/texture changes. The buildings along the project boundary will be blended with the perimeter fence and walls using similar materials and colors to create a cohesive look without the use of large blank unbroken walls. Conceptual renderings of the proposed buildings have been included with this submittal and are subject to change at final design:

Figure 1: Main Entrance Along Jenny's Lane

Figure 2: Aerial View Looking Northwest from Farm District Road and Jennys Lane

Grading

The project site is a ±5.0 acre site that is vacant and undisturbed. The site is generally flat with a majority of the site has slopes less than 10%, therefore Section 32.09.130 does not apply. Site grading has been designed to protect the adjacent roadways and the existing residential properties to the west and north as well as direct sheet flow toward a retention pond in the south and northwest corner to capture onsite flows. All finish grad slopes are proposed to be less than 10% with the exception of the 3:1 slopes for the retention pond and grading down to the site from the road shoulder on Farm District Road to the property line which is proposed to be at a ±20% grade.

Drainage

Onsite drainage is proposed to slope to one of the two retention ponds proposed to the southeast along Farm District Road or to the northwest corner of the property. This includes a total of ±12,390 square feet between the two retention ponds. The site will have valley gutters within the drive isles to capture onsite flows and direct them to the retention ponds. Additional swales located within the landscape area along Farm District Road, and the north and western boundary will also direct onsite flows from the landscape areas to the valley gutters. The retention ponds will have 3:1 slopes and will blend with the landscape with a rock mulch ground cover (*refer to Section 4 of this Submittal Packet for the Preliminary Hydrology Letter*).

Water, Sewer, and Utilities

Overhead power lines and communications are present on north, south, and east property lines and are stubbed on-site at the proposed project entrance along Jennys Lane which will be extended into the site. An existing two-inch gas main is available on the west shoulder of Jennys Lane along the project site east property line as well as an existing four-inch gas main on the north shoulder of Farm District Road and can be extended into the site. Power is operated by NV Energy, natural gas by Southwest Gas, communications/cable TV/internet by Charter and AT&T.

Sanitary sewer exists on the north shoulder of Farm District Road adjacent to the south property line. Wastewater generated by the office is proposed to gravity flow to an exterior wet well with a grinder and sewage pump, which will route wastewater via low pressure force main to an existing gravity sewer manhole in Jennys Lane at its intersection with Farm District Road. Sewer will be provided by the City of Fernley.

Water is stubbed on-site at the proposed project entrance from an existing water main in Jennys Lane on the east property line. A domestic water meter and backflow assembly will be tapped from the existing water stub at the proposed site entrance and extended into the site. A reclaimed water main exists on the north shoulder of Farm District Road and an irrigation water meter and backflow assembly will be tapped from the existing water stub at the proposed site entrance. Water service will be provided by the City of Fernley. A Utility Site Plan and Preliminary Sewer Report identifying the extension and demand of all utilities has been included with this submittal (*reference the Site Plan and the Preliminary Sewer and Hydrology Letter in Section 4 of this Submittal Packet*).

Traffic and Circulation

The proposed access to the project is via Jennys Lane, an existing public street. The street extends north and south of Farm District Road, an arterial roadway immediately south of the project site. The intersection of Jennys Lane and Farm District Road has two-way stop control and marked crosswalks.

The main entry to the project site will be gated to provide security for the personal storage facility. Three parking spaces will be available outside of the gate for visitors, and one employee parking space will be provided inside the gated area. The gate will be setback 60-feet from Jennys Lane to allow for stacking while guests wait for the gate to open. Internal drive aisles range from a minimum of 24-feet wide to a maximum of 45-feet wide to provide sufficient space for vehicle movement. The perimeter lanes are a minimum of 30-feet wide, which will allow firetruck and emergency vehicle circulation on-site.

Pedestrian access will be provided by a sidewalk along Jennys Lane along the western boundary and will tie into the existing crosswalk which provides a pedestrian crosswalk across Jennys Lane to the east and then to a crosswalk across Farm District Road to the south and the existing multi-use path. No pedestrian sidewalk is proposed along Farm District Road since a multi-use path is provided along the southern boundary.

Traffic generated from the project is not anticipated to have a significant impact to the surrounding area including Jennys Lane or Farm District Road as personal storage facilities are very low traffic generators. A Trip Generation Letter was performed by a licensed Engineer as part of this request and is included in Section 4 of the application packet. The letter concludes that the proposed personal storage facility, which is one of the lowest traffic generating uses, is only anticipated to generate a total of 9 AM and 14 PM peak hour trips, with a total of 139 average daily trips. Traffic generation from this request is under the threshold required to trigger a traffic study and is anticipated to have minimal impact to the existing roadways which serve the proposed project.

Parking

As part of the CUP request, a parking reduction from the City of Fernley standard of 1 space per 2,000 square feet of building gross floor area is requested. The minimum parking required according to City of Fernley would require a total of 48 spaces, which is not reflective of the actual amount of parking typically required for a personal storage facility. When referring to the *ITE Parking Generation Manual (6th Edition)* the use of mini-warehouse, defines peak parking demand as 0.10 spaces per 1,000 square feet of gross floor area. For the project's proposed ±95,633 square feet of gross floor area, 10 parking spaces are required. The project proposes a total of 3 parking spaces near the office accessed from the front entrance. The remaining 7 parking spaces can be accommodated by allowing parking to occur in front of the storage units. The 24 to 45 foot wide drive aisles are able to accommodate a parallel parked vehicle for loading/unloading with enough width for another vehicle to maneuver around.

This design, along with the parking reduction using the minimum spaces when referring to the *ITE Parking Generation Manual*, will provide adequate parking for the proposed use even during peak use periods which are not anticipating more than 2-3 users at a time. Due to the nature of the use, a majority of the users will be accessing their personal storage units and will not need to utilize parking spaces in front of the office. The guest parking proposed in front of the office is intended for new customers or customers managing their accounts. Therefore, the proposed parking should be adequate and is typical for the amount of parking provided at similar facilities.

Landscaping

The project includes landscaping located along Farm District Road and Jennys Lane and a minimum 10-foot landscape strip along the north and western boundaries adjacent to residential that will provide trees to help screen the buildings and walls. All landscaping will be designed in accordance with City of Fernley Code requirements and will include drought-tolerant plants and street trees to encourage water-efficient irrigation.

Per Section 32.09.090 of the Zoning Code, a minimum of 15% of the site must be landscaped in the C2 zone. The project site is ±5.0 acres, which means a minimum of 0.75 acres is required to be landscaped. The proposed site plan includes ±0.89 acres of landscape area or 17.7% of the site and will exceed the minimum requirements. The Zoning Code requires a minimum of 1 street per 500 square feet, which means a total of 65 trees is required. Additionally, the Zoning Code requires 1 shade tree for every 7 parking spaces. The project is proposing 4 parking spaces which would require a total of 66 trees. A minimum 10-foot landscape strip is required between parking areas and street frontages. One tree shall be planted in each of these landscape strips for every 30 feet of street frontage.

Ground covering will be provided in all landscape areas per Zoning Code requirements. Ground covering may include living plants such as shrubs, turf grasses, vines, or other living ground covers. Decorative rock, pavers, mulch, decomposed granite, or other non-living materials may also be used. Non-permeable materials will not be used for more than 20 percent of the total landscape area, excluding areas of temporary coverage allowed for plants to reach maturity.

Buffering is required to provide landscaped separation and screening between residential and nonresidential uses. The project site borders residential uses to the north and west. The project is proposing a minimum 10-foot-wide landscape buffer along the northern and western boundary. Although this area has a portion of which will provide onsite detention, trees and shrubs will also be located within this buffer. Per the Zoning Code, buffering requirements include planting evergreen trees no further apart than 30 feet on center to help provide a visual barrier between the project and residential uses to the north and west.

Walls/Screening

The project will provide a solid wall/fence to screen the property from neighboring residential uses to the north and south and create privacy, consistent with Section 32.06.100 of the Zoning Code. The buildings located along property boundaries will be incorporated into the wall. The primary entrance and gated emergency access will be fenced with open view fencing. The applicant is proposing to use a metal type wall with panels varying in color and orientation to address the code for solid screening fence as depicted in the conceptual renderings above.

Signage

Any signage proposed in the future will conform with the sign standards found in Section 32.10 of the City of Fernley Zoning Code. It is anticipated small monument style signs and signage on the building would be provided near the front of the office and near the intersection of Farm District and Jenny's Lane.

Police and Fire Service

The project site is located in an area already served by police and fire services. Police services will be provided by the Lyon County Sheriff's Department and fire service will be provided by the North Lyon County Fire Protection District. The closest fully staffed fire station is the North Lyon County Fire Protection District Station 62, located approximately 2.5 miles east near the intersection of Red Rock Road and Farm District Road. The main access to the site where police and fire will enter the development is located on Jennys Lane. An additional emergency access point is accessible from Farm District Road.

Development Statistics Summary

The following is a summary of the development statistics of the site:

Total Site Area:..... ±5.0 acres
Total Number of Buildings: ..... 9 buildings (8 storage and 1 office)
Lot Coverage: ..... ±43.9%
Total Building Square Footage:..... 95,633± square feet (43.9%)
Storage Area:..... 94,433± square feet
Office Area:..... 1,200± square feet
Total Paving and Concrete:..... 76,710± square feet (35.2%)
Storm Water Retention Pond: ..... 12,390± square feet (5.7%)

Minimum Landscape Area Required:..... 0.75 acres (15%)
Total Landscape Area Proposed: ..... 0.89± acres (17.7%)
Minimum Parking Required:..... 10 spaces
Total Parking Spaces: ..... 3 visitor spaces + 7 parallel parking along drive isles

ZONING MAP AMENDMENT FINDINGS

A zoning map amendment is committed to the city council's legislative discretion.

1. **The zoning map amendment may be approved if it is consistent with the city's Master Plan and otherwise consistent with state and federal law.**

   Response: The proposed zoning of C2 is allowed within the subject parcel's Master Plan designation of Commercial (C). Regardless of C1 or C2, residential adjacency will need to be addressed with a future project to ensure compatibility with the surrounding area. See the below excerpts and comments from the Master Plan demonstrating the alignment of the goals and policies to this zoning map amendment request.

   Commercial Master Plan Policies

   LU.1.1 Encourage new development in areas where adequate public services and facilities can be provided efficiently.

   Comment:
   Sewer, Water, and Utilities
   Overhead power lines and communications are present on north, south, and east property lines and are stubbed on-site at the proposed project entrance along Jennys Lane which will be extended into the site. An existing two-inch gas main is available on the west shoulder of Jennys Lane along the project site east property line as well as an existing four-inch gas main on the north shoulder of Farm District Road and can be extended into the site. Power is operated by NV Energy, natural gas by Southwest Gas, communications/cable TV/internet by Charter and AT&T.

   Sanitary sewer exists on the north shoulder of Farm District Road adjacent to the south property line. Wastewater generated by the office is proposed to gravity flow to an exterior wet well with a grinder and sewage pump, which will route wastewater via low pressure force main to an existing gravity sewer manhole in Jennys Lane at its intersection with Farm District Road. Sewer will be provided by the City of Fernley.

   Water is stubbed on-site at the proposed project entrance from an existing water main in Jennys Lane on the east property line. A domestic water meter and backflow assembly will be tapped from the existing water stub at the proposed site entrance and extended into the site. A reclaimed water main exists on the north shoulder of Farm District Road and an irrigation water meter and backflow assembly will be tapped from the existing water stub at the proposed site entrance. Water service will be provided by the City of Fernley. A Utility Site Plan and Preliminary Sewer Report identifying the extension and demand of all utilities has been included with this submittal (reference the Map Pocket of this Submittal Packet).

   Schools
   The proposed project will not result in new student generation.

Police and Fire Service

The project site is located in an area already served by police and fire services for commercial uses. Police services will be provided by the Lyon County Sheriff's Department and fire service will be provided by the North Lyon County Fire Protection District. The closest fully staffed fire station is the North Lyon County Fire Protection District Station 62, located approximately 2.5 miles east near the intersection of Red Rock Road and Farm District Road. The proposed emergency access is located on Farm District Road.

LU.1.2 Encourage new development to be in accordance with the Comprehensive Master Plan land use category.

Comment: The subject parcel has a Master Plan designation of Commercial (C). The proposed zoning designation (C2) is in conformance with the land use category. The proposed development will provide a new business to serve local residents and is located in an area with excellent connectivity and access to existing municipal services and amenities.

2. **The zoning map amendment may be approved if it is consistent with the surrounding land uses**.

   Response: The subject parcel is located immediately adjacent to C1 zoning to the east, which could be developed in the future with similar intensity as the proposed C2. The proposed personal storage use is less intense than other potential uses allowed by right in the existing C1 zone. City of Fernley only allows personal storage facilities in the C2 zoning designation. Regardless of C1 or C2 zoning a future project in either would be subject to residential adjacency to ensure compatibility with the surrounding land uses. The proposed zoning map amendment will facilitate the addition of a new commercial business to serve local residents and promote development within the existing community of Fernley. It is consistent with the Master Plan designation and fulfills goals and policies for future growth in the community.

3. **The zoning map amendment may be approved if public notice was given, and a public hearing held per the requirements of the development code and Nevada Revised Statutes.**

   Response: Throughout the entitlement process, the applicant will follow all requirements of the development code and Nevada Revised Statutes for noticing the public, holding meetings, and attending public hearings.

Conditional Use Permit Findings

1. **The approving agency must make findings that the proposed conditional use will be in compliance with the Master Plan**.

   Response:
   This project proposes a C2 zoning designation, which is in conformance with the Master Plan Commercial (C) designation assigned to the site.

2. **The conditional use will be compatible with the existing or permitted uses of adjacent properties.**

Response:
The proposed personal storage facility is compatible with the surrounding residential and commercial land uses on adjacent properties. The proposed use will not generate excessive noise or traffic. The buildings will be screened from neighboring properties, and landscaping along Farm District Road will provide an additional buffer between the subdivision to the south and the proposed project.

3. **The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment.**

Response:
The proposed project is not anticipated to generate significant demand on natural resources. The projects site is in an area surrounded by development and is considered infill. The site has been previously disturbed and there are existing utilities adjacent to the property and will be extended into the site.

4. **The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.**

Response:
The proposed project does not include a residential component. The parcel is designated for commercial use, and the proposed development is commercial.

5. **The conditional use permits impacts have been conditioned to address identified impacts.**

Response:
The site has been designed to meet all applicable City of Fernley Municipal Code standards as described above. The applicant understands that further conditions may be added to address identified impacts.

6. **Public notice has been given and a public hearing held per the requirements of the development code and the Nevada Revised Statutes.**

Response:
Throughout the entitlement process, the applicant will follow all requirements of the development code and Nevada Revised Statutes for noticing the public, holding meetings, and attending public hearings.

Memorandum

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME

To: Dan Douglass
Douglass Development, LLC
11050 Vincent Lane
Reno, NV 89511

From: Pranesh Tarikere, PE
Bryan Gant, PE

Date: June 18, 2024

Subject: **Vaquero Storage Trip Generation Analysis**

INTRODUCTION

This memorandum has been prepared to present the results of Trip Generation Analysis performed for the proposed 95,633 square foot mini-warehouse (Project). The results of the analysis include an estimate of the weekday daily, AM peak hour, and PM peak hour trips anticipated to be generated by the Project.

PROJECT DESCRIPTION

The Project consists of a 95,633 square foot (sf) self-storage facility, identified as a mini-warehouse under the City of Fernley Municipal Code, located at the northwest corner of the Jennys Lane & Farm District Road intersection in the City of Fernley (City) in Lyon County, Nevada. The Project includes construction of a new 94,433 sf storage area and 1,200 sf office area.

Access to the project will be provided via full access gated driveway on N Jennys Lane on the east via Farm District Road or right only gated exit driveway on Farm District Road on the south.

A Project site plan is included at the end of this memorandum as **Attachment A**.

TRIP GENERATION ANALYSIS

ITE TRIP GENERATION

Trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition, with Mini-Warehouse (ITE Code 151) rates used for the Project.

Trip generation rates based on ITE are summarized in **Table 1**.

Table 1. Project Trip Generation Rates

Land Use[1]	ITE Code	Units	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Rate	In	Out	Rate
Mini-Warehouse	151	KSF[2]	1.45	59%	41%	0.09	47%	53%	0.15

Notes:
[1]Trip rates are based on ITE Trip Generation Manual (11th Edition) average rates.
[2]KSF = 1,000 square feet

Applying these rates, the trips anticipated to be generated by the Project are summarized in **Table 2**.

Table 2. Project Trip Generation Summary

Land Use	Quantity	Units	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Mini-Warehouse	113.47	KSF[2]	139	5	4	9	7	7	14
Total Primary Trips			**139**	**5**	**4**	**9**	**7**	**7**	**14**

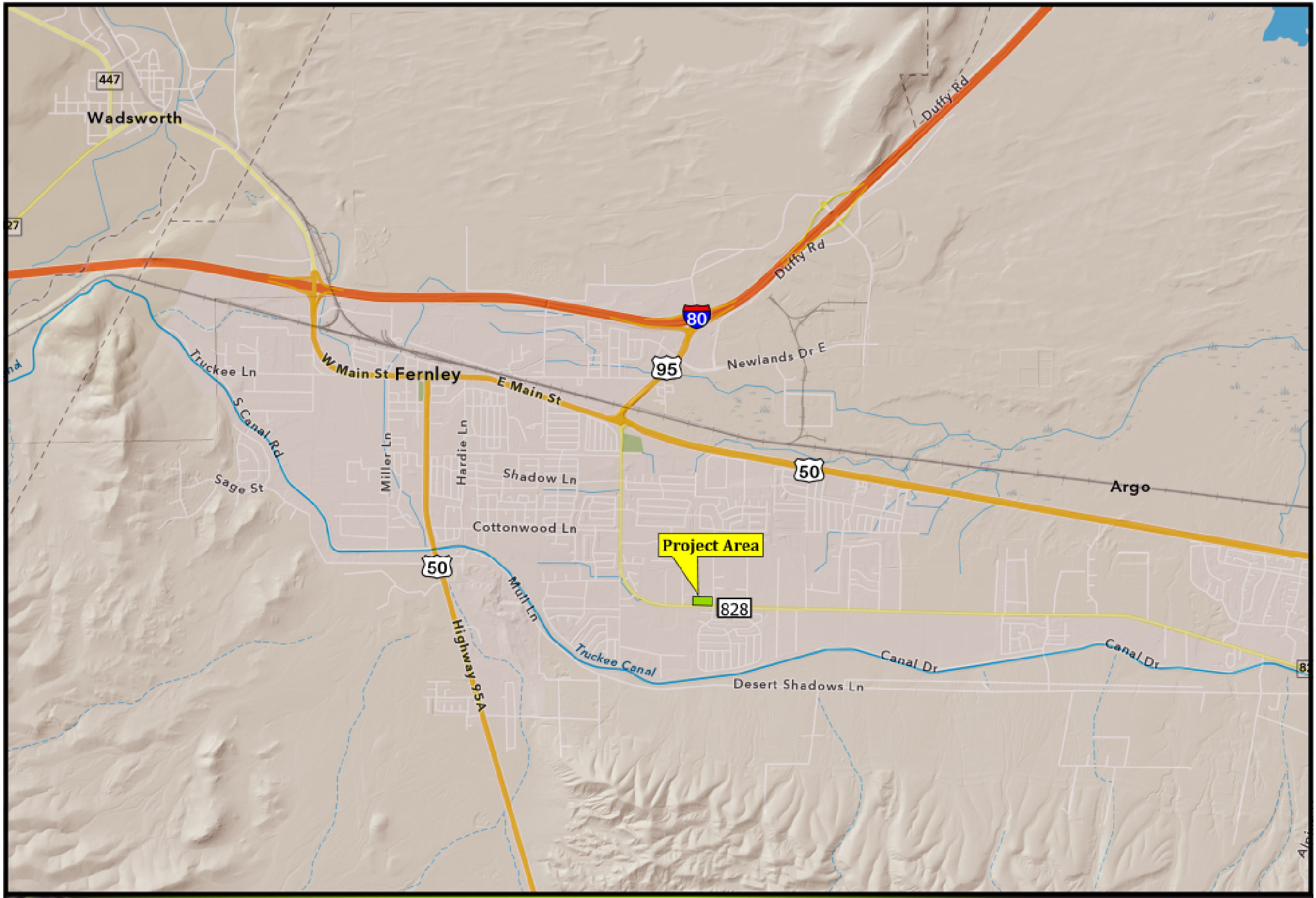
Notes:
[1]Trip generation estimates are calculated based on ITE Trip Generation Manual (11th Edition) average rates.
[2]KSF = 1,000 square feet

The Project is expected to generate a total of 139 daily trips with 9 AM peak hour trips (5 Inbound, 4 Outbound) and 14 PM peak hour trips (7 Inbound, 7 Outbound).

The trips generated by the Project is not significant and not anticipated to create new traffic impacts to the adjacent street network.

ATTACHMENTS:

Attachment A: Project Site Plan



Vicinity Map

Vaquero Storage

June 2024

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard
Reno, NV 89502
Tel: 775.823.4068
Fax: 775.823.4066

Aerial Map

Vaquero Storage

June 2024

0 105 210 Feet

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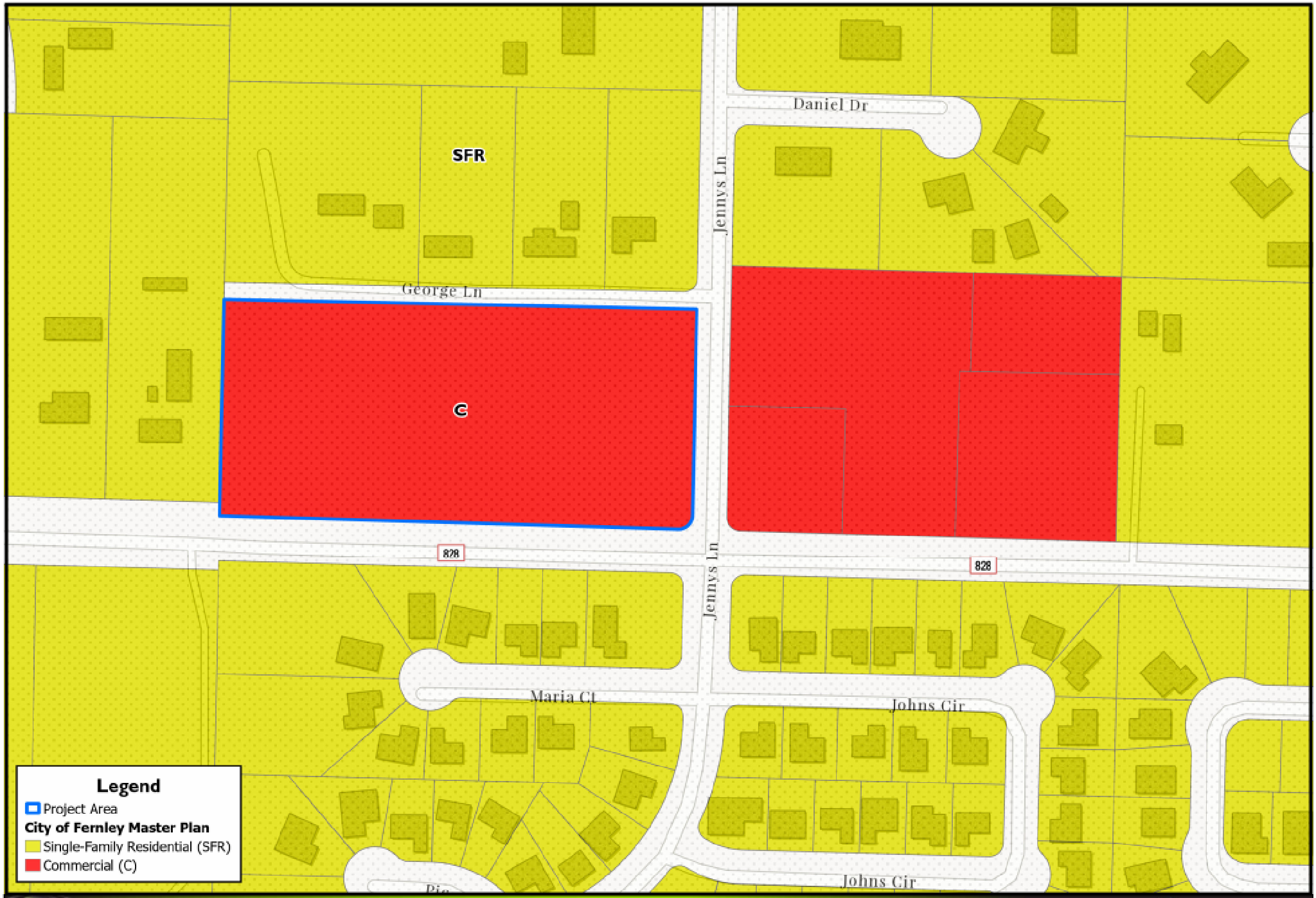

Master Plan

Vaquero Storage

June 2024

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Fax: 775.823.4066

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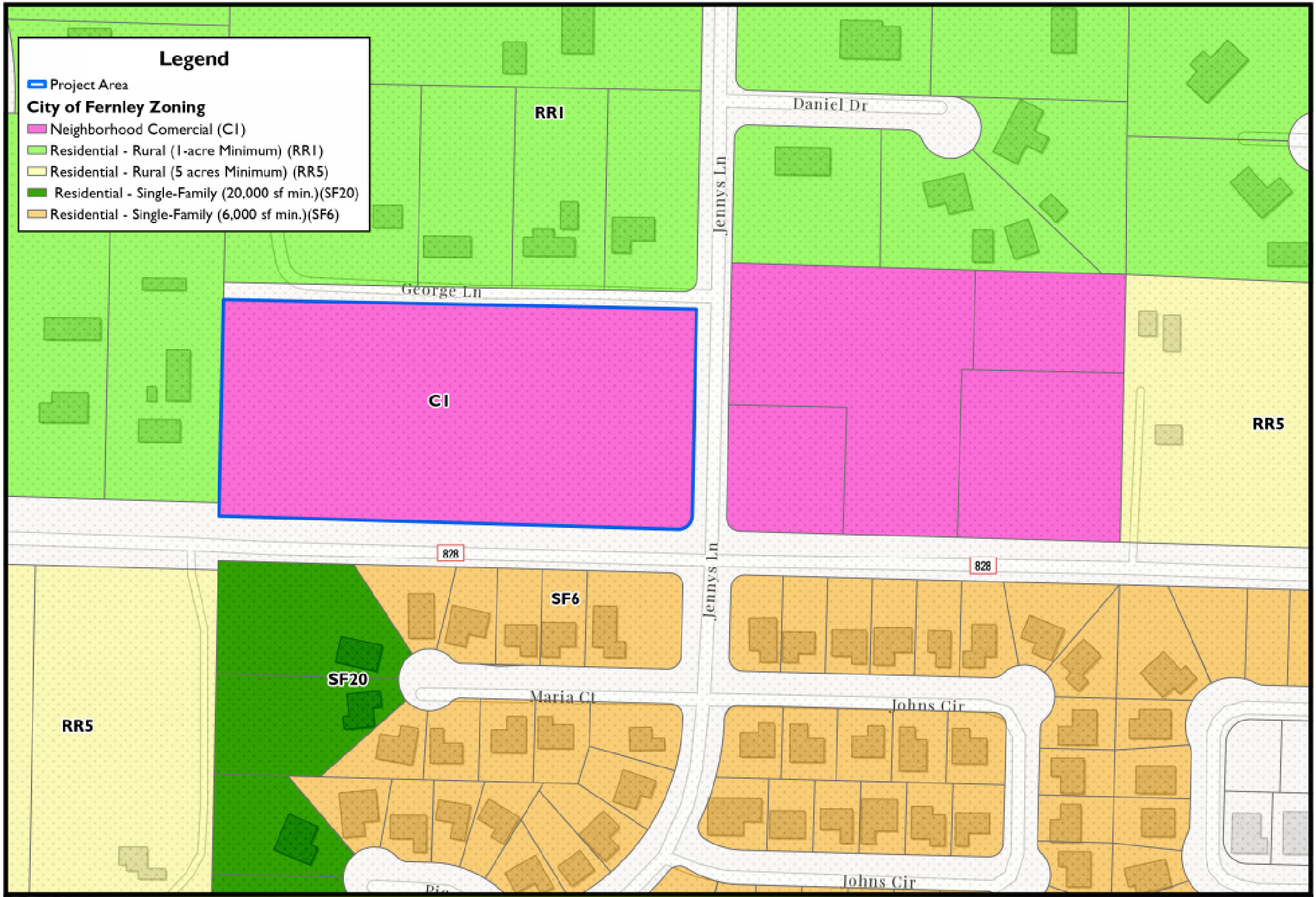

Existing Zoning

Vaquero Storage

June 2024

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard
Reno, NV 89502
Tel: 775.823.4068
Fax: 775.823.4066

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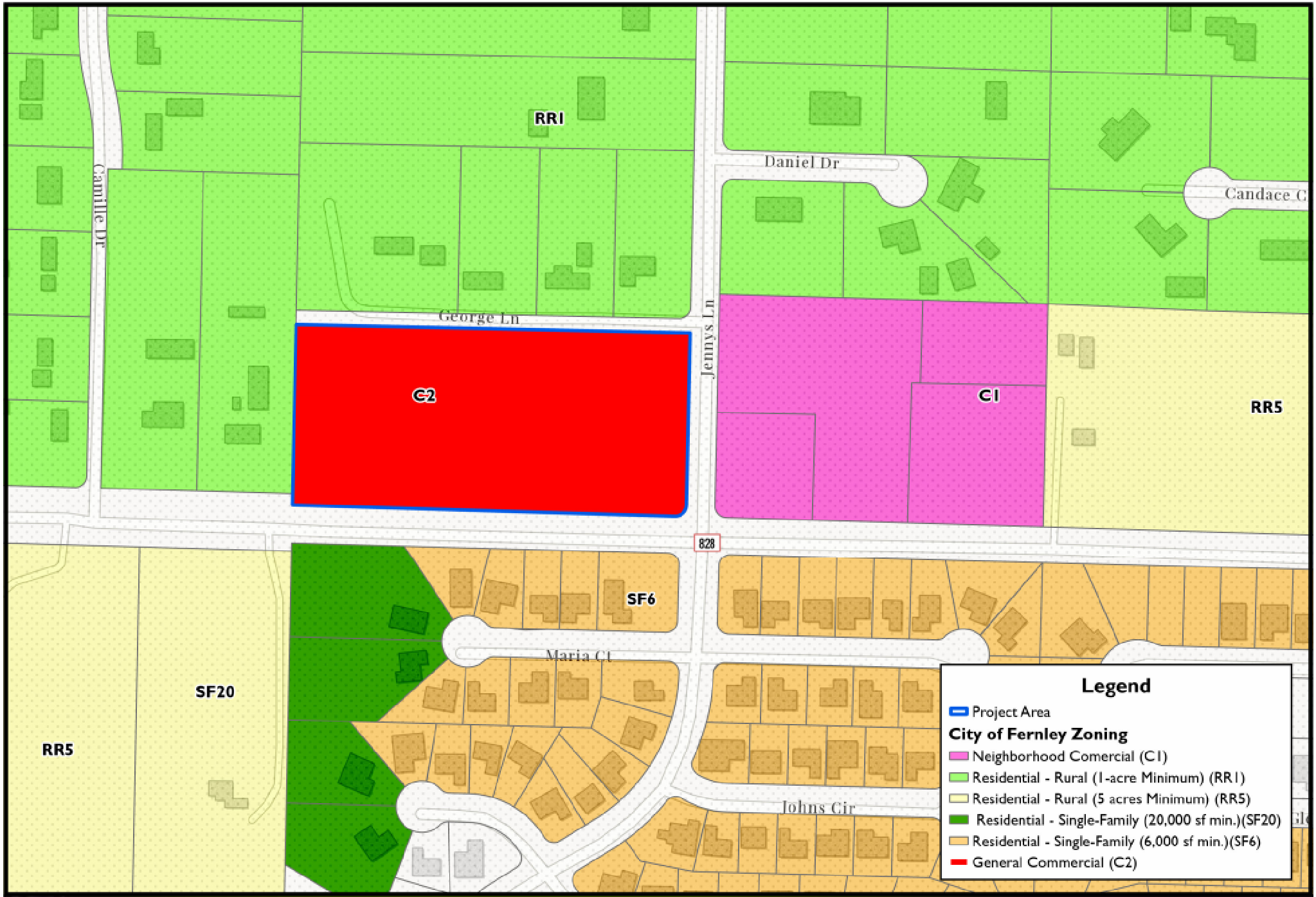

Proposed Zoning

Vaquero Storage

June 2024

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard
Reno, NV 89502
Tel: 775.823.4068
Fax: 775.823.4066

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Vaquero Storage Illustrative

Zoning Map Amendment and CUP

June 2024

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard
Reno, NV 89502
Tel: 775.823.4068
Fax: 775.823.4066

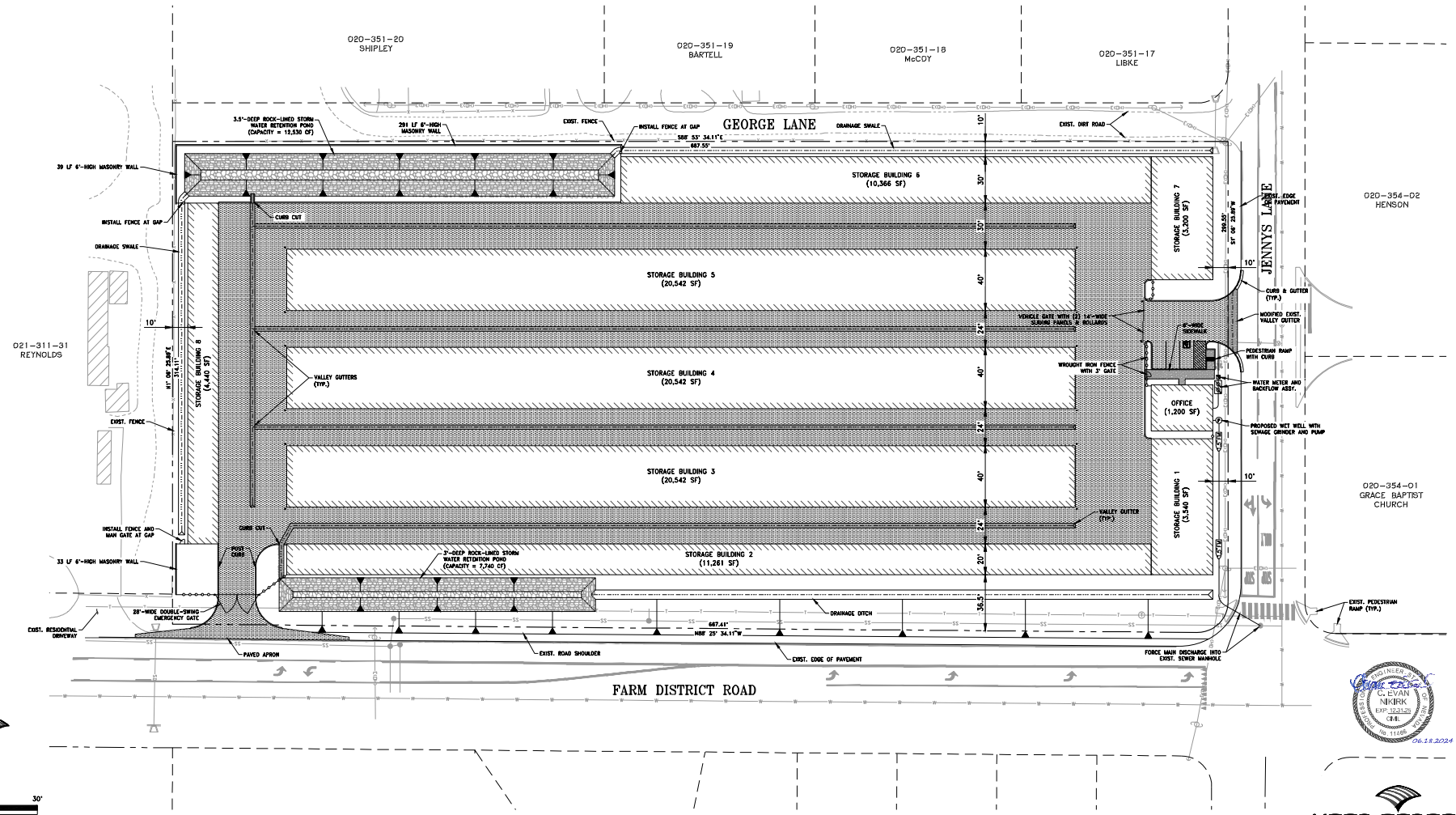
VAQUERO STORAGE - CONDITIONAL USE PERMIT

SITE PLAN

DOUGLAS DEVELOPMENT, LLC

FERNLEY **NEVADA**

JUNE 2024



C. EVAN NIKIRK EXP. 12-31-25 CIVIL

06.18.2024

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard Tel 775.823.4068
Reno, NV 89502 Fax 775.823.4066

FARM DISTRICT STORAGE ZMA / CUP

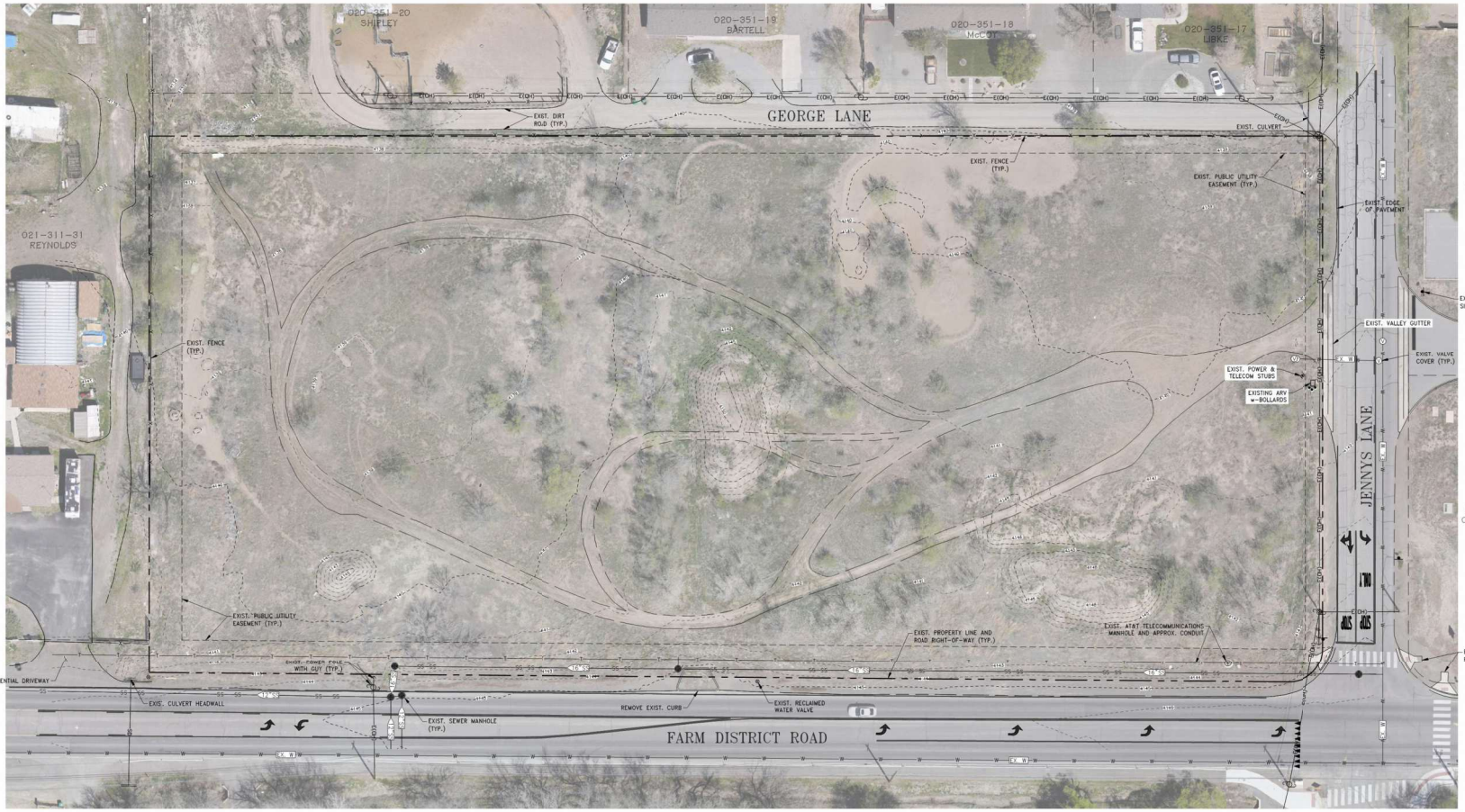
VAQUERO STORAGE - CONDITIONAL USE PERMIT

EXISTING CONDITIONS

DOUGLAS DEVELOPMENT, LLC

FERNLEY **NEVADA**

JUNE 2024



C. EVAN NIKIRK
EXP: 12.31.25
CIVIL
No. 11466
06.18.2024

TOPOGRAPHIC BASE MAP PREPARED BY WOOD RODGERS, INC. (RENO, NV). AERIAL PHOTOGRAPHY DATED APRIL 22, 2024.

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
1361 Corporate Boulevard Tel 775.823.4068
Reno, NV 89502 Fax 775.823.4066

CITY OF FERNLEY

Planning Commission
AGENDA REPORT

Meeting Date: September 11, 2024

REPORT TO:	Fernley Planning Commission
REPORT FROM:	**Michele Rambo, Planning Director**

FINANCIAL IMPACT:		**CURRENTLY BUDGETED:**		**FUND/ACCOUNT:**
Yes:	No: X	Yes:	No: X	N/A

ACTION REQUESTED:

AGENDA ITEM:

A workshop to review and discuss revisions to Chapter 32.3 (Administration) of the City of Fernley Development Code.

AGENDA ITEM BRIEF:

The City of Fernley Planning Department is updating Title 32 of the Municipal Code, also known as the Development Code, to: 1) modernize it to better reflect current trends and technologies; 2) codify and streamline the development process; and 3) make general content and grammar corrections. Staff has completed an initial review of Chapter 32.03 (Administration) and has recommended many changes. Staff is now asking the Planning Commission and the public to review these changes and provide comments regarding other changes they would like to incorporate into the new Development Code.

RECOMMENDED MOTION:

None

BUSINESS IMPACT (per NRS Chapter 237):

A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

None

BACKGROUND:

The Development Code was last updated in 2020. While that was fairly recent, the existing Development Code poses some challenges for both staff and developers. These challenges include inconsistencies between sections, vague requirements that are hard to interpret and enforce, and a general lack of appropriate regulations for a growing community.

During the update process, Staff wants to get input from the Planning Commission, City Council, and the public to ensure that the updated Development Code works for as many people as possible. The Planning Department's goal is to create a Development Code that encourages development, while maintaining the character and community that residents have come to enjoy.

For the purposes of this workshop, Staff is requesting that Planning Commission review the proposed changes, provide their opinions, and/or make suggestions for further changes. To make reviewing the proposed changes easier, a separate document is attached outlining the major changes.

The draft Chapter 32.03 has been reviewed by the City Attorney and the outside land use attorney and any of their concerns have been addressed.

RELEVANT LAWS, STATUTES, AND REGULATIONS:

City of Fernley Municipal Code Title 32 (Development Code)

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. Summary of Changes
2. Proposed Chapter 32.03

Significant Changes to
Development Code Chapter 32.03

1. Addition of on-site signage for public notification in certain instances.

    - Request by City Council to increase notification of residents
    - All legislative applications on more than 5 acres
    - Tentative Subdivision Maps and Conditions Use Permits for residential projects on more than 5 acres
    - Minimum of 3 ft X 4 ft in size
    - Protected from weather conditions
    - Posted by applicant/developer

2. Addition of neighborhood meetings for certain types of applications.

    - Required automatically for multiple types of applications
    - Planning Director can require for any application with significant impacts (design, traffic, compatibility)
    - Planning Commission and/or City Council can also require
    - Applicant/Developer responsible for advertising and notification

3. Addition of pre-application meeting for certain types of applications.

    - Required for all legislative applications
    - Optional for all other application types
    - Must provide a preliminary site plan or description of use at least 7 days before meeting for staff review

4. Separation of what types of applications can be reviewed concurrently.

    - Remove ability for legislative applications to be processed concurrently with entitlements and/or mapping
    - Require that each application must stand on its own
    - Require that each application be decided on based on its own findings and/or criteria

5. Defined findings applicable to all applications.

    - Created a section containing findings that all applications must be consistent with
    - Higher level issues such as consistency with Master Plan, Compliance with Development Code, Traffic mitigation, provides a safe environment for pedestrians and bicyclists, each phase of the project (if any) stands on its own
        - Streets, utilities, landscaping, open space, and other improvements shall not depend on subsequent phases to be completed

6. Addition of permit revocation procedures.

    - Revocation can occur when an applicant fails to comply with any conditions of approval
    - Planning Commission provides a recommendation to the City Council
    - Revocation must include a finding that there is substantial nonconformance with the conditions of approval or City ordinances
    - Specific revocation guidelines included for Temporary Use Permits for special events.

7. Updated specific findings required for each application type.

    - Removed outdated or irrelevant findings
    - Added legally defensible findings to protect the City against legal action
    - Updated findings to comply with any NRS requirements

8. Added substantial language for Development Agreements.

    - Outlines what needs to be in a Development Agreement
    - Outlines the relationship between the Development Agreement and other laws, ordinances, codes, resolutions, and/or standards
    - Provides regulations for amendment or cancellation
    - Provides regulations for cancelling a Development Agreement

9. More clearly outlined amendment/modification procedures for approved entitlements.

    - General requirements for all application types
        - Planning Director may approve minor façade alterations, minor changes to site plan, minor changes to the conditions of approval if changes are consistent with City code and do not change the scope of the project
        - New application required for all other changes
    - Project specific modifications
        - Planned Development, Administrative Review, and Conditional Use Permit applications have more specific amendment/modification procedures for proposed changes that do not fall under the general requirements

10. Better defined applicability and updated findings for modification and variance applications.

    - Purpose and applicability more clearly define which modification/variance application is appropriate in different situations.
    - Updated findings for each application to make them legally defensible and protect the City against legal action

CHAPTER 32.03. – ADMINISTRATION

Article 1 – Purpose, Applicability, and Process.

Sec. 32.03.100. – Purpose and Applicability

(a) The purpose of this Chapter is to provide consistent, equitable procedures for the review of development proposals and to ensure that proposed development will be in accordance with the purposes and standards of this Code.

(b) This Chapter applies to any legislative, entitlement, and modification application within the City of Fernley.

  (1) The process, procedures, and design standards of land division applications can be found in Chapter 32.04.

(c) This Chapter establishes procedures for land development decisions made under this Chapter. These include:

  (1) Legislative Applications.
    a. Annexation
    b. Development Agreement
    c. Development Code Text Amendment
    d. Comprehensive Master Plan Map Amendment
    e. Comprehensive Master Plan Text Amendment
    f. Minor Comprehensive Master Plan Amendment
    g. Planned Development
    h. Zoning Map Amendment
  (2) Entitlements.
    a. Administrative Review
    b. Conditional Use Permit
    c. Temporary Use Permit – Use
    d. Temporary Use Permit – Special Event
  (3) Modifications and Relief.
    a. Major Deviation
    b. Minor Deviation
    c. Variance
    d. Waiver
  (4) Other Procedures.
    a. Reasonable Accommodation

Sec. 32.03.110 – General Process Elements

(a) This Chapter sets up rules for procedures, such as Pre-Applications, neighborhood notification, general notices, public hearing, and appeals. It then describes the process for legislative, entitlement, and modification decisions. The procedures have a common workflow and description, as follows:

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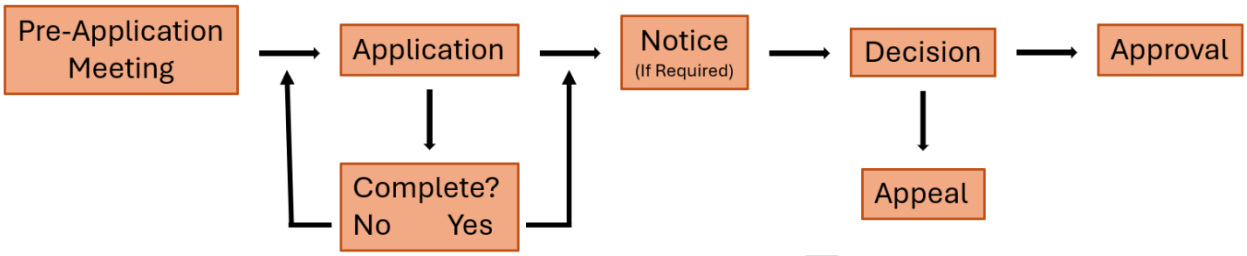
Figure 32.03.110-1 – Process Flowchart



Article 2 – Review and Decision-Making Bodies.
Sec. 32.03.200. – Summary Table
Table 32.03.200-1 (below) lists the Legislative, Entitlement, and Modification applications authorized by this Chapter. It also summarizes the development review process, outlines the decision-making responsibilities of different parties, and shows noticing requirements if applicable. Other duties and responsibilities of these entities are set forth in subsequent sections of this Code.

Table 32.03.200-1 – Summary Table of Development Review Procedures

KEY: R=Review/Recommendation D=Decision A=Appeal [brackets]=Public Hearing ✓=Required									
Procedure	Pre-Application	Notice				Review/Decision-Making Body			
		Newspaper	Mailed	Website	Sign	Planning Administrator	Planning Commission	City Council
Legislative Applications									
Annexation	✓	✓		✓	✓	R	[R]	[D][1]
Comp. Master Plan Map Amendment[3]	✓	✓	✓	✓	✓	R	[R]	[D][1]
Comp. Master Plan Text Amendment	✓	✓		✓	✓	R	[R]	[D][1]
Development Agreement[3]	✓	✓		✓	✓	R	-	[D][1]
Development Code Text Amendment	✓	✓		✓	✓	R	[R]	[D][1]
Minor Comp. Master Plan Amendment[3]	✓	✓		✓	✓	R	[R]	[D][1]
Planned Development[3]	✓	✓	✓	✓	✓	R	[R]	[D][1]
Zoning Map Amendment (Rezoning)[3]	✓	✓	✓	✓	✓	R	[R]	[D][1]
Entitlements									
Administrative Review						D	A	A
Conditional Use Permit[4]		✓	✓	✓	✓[2]	R	[D]	[A]
Temporary Use Permit - Use						D	A	A
Temporary Use Permit – Special Event						D	A	A
Modifications and Relief									
Major Deviation			✓	✓		R	[D]	[A]

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Minor Deviation						D	A	A
Variance			✓	✓		R	[D]	[A]
Waiver		Varies	Varies	Varies		R	Varies	Varies
Other Procedures								
Reasonable Accommodation						D	A	A

Notes:

1. Public Hearing required for Second Reading only
2. Residential and Hazardous Materials projects only
3. Neighborhood Meeting required
4. Neighborhood Meeting required for hazardous materials projects and when adjacent to residential zoning

Article 3 – Standard Review Procedures.

Sec. 32.03.300. – General

(a) This Article describes the standard procedures and rules applicable to all development application found in Table 32.03.200-1 above. Not all procedures are applicable to every development application. Application-specific procedures in Article 4 through 8 identify additional procedures and rules beyond those in this Article.

Sec. 32.03.310 – Pre-Application Meeting.

(a) Purpose.

The pre-application meeting is intended to provide an opportunity for the applicant to meet with City staff to review applicable submittal requirements and review procedures associated with the proposed development.

(b) Applicability.

(1) A pre-application meeting is required for the following types of applications:

(a) Annexation
(b) Development Agreement
(c) Development Code Text Amendment
(d) Comprehensive Master Plan Map Amendment
(e) Comprehensive Master Plan Text Amendment
(f) Minor Comprehensive Master Plan Amendment
(g) Planned Development
(h) Zoning Map Amendment

(2) A pre-application meeting is optional for all other applications listed in Table 32.03.200-1 above.

(c) Procedure.

(1) The applicant shall submit a request for a pre-application meeting to the Planning Department.

(2) The Planning Department shall schedule pre-application meetings and notify appropriate staff and the applicant of the time and location of the meeting.

(3) At least seven (7) days prior to the scheduled pre-application meeting, the applicant shall submit preliminary project materials, which may include:

a. A written description of the proposed project;
b. Conceptual drawings showing the location and layout of the proposed project;
c. Proposed uses or density of units proposed; and/or
d. Any questions of staff related to the project or process.

(4) City staff attending the pre-application conference shall identify preliminary concerns or factors the applicant should consider related to the scope, features, and potential impacts of the project. City staff shall also indicate to the extent possible whether additional application materials or approval procedures may be required for the proposed project.

(d) Any information or discussions held at the pre-application meeting shall be considered preliminary in nature and shall not be binding on the City or the applicant. Discussions of potential staff recommendation or conditions to mitigate impacts do not reflect action by the decision-making body until and unless a decision-making body takes formal action on a complete application.

Sec. 32.03.320. – Application Submittal and Handling.

(a) Authority to Submit.

(1) Unless otherwise stated in this Code, a development application shall be submitted by:

a. The owner, purchaser under contract, or any other entity or person having a recognized property interest in the land on which development is proposed; or

b. A person authorized to submit the application on behalf of the owner, purchaser under contract, or other entity or person having a recognized property interest in the land, as evidenced by a letter or document signed by the owner, purchaser under contract, or a person with a recognized property interest.

(2) If there are multiple owners listed on a deed, multiple buyers listed on a purchase agreement, or multiple entities or persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

(3) Applications shall be signed by the owner(s) of the property in question or their authorized representatives. If the property has multiple owners, a list shall be provided of all persons and entities with a property interest in the property.

(4) These application filing requirements shall not require that all members or shareholders of an entity sign an application if company authorization of signing authority is provided for the person signing the application consent form.

(b) The application shall be submitted to the Planning Department on a form established by the Planning Department. The applicant bears the burden of demonstrating compliance with application requirements.

(c) Applications filed under this Chapter must include the information required by Appendix A-4 (Submittal Requirements). An application is not complete until all required items are submitted.

(d) The Planning Department is authorized to charge fees related to the processing of applications in accordance with the City Council's approved schedule of fees. Fees are due at the time the application is filed.

(e) Concurrent Review.

(1) Legislative applications identified in Sec. 32.03.100(c)(1), may not be combined with applications for Entitlements, Modifications, Mapping, or Land Division. They may, however, be combined with other legislative applications if more than one is required.

a. Entitlement, Modification, Mapping, or Land Division applications may not be submitted to the Planning Department until the associated Legislative application(s) has been approved by the City Council.

(2) Except as provided above, an applicant may submit applications for different permits and approvals that may be required for a single development project for concurrent processing.

Figure 32.03.320-1 – Concurrent Applications

Application Types:	**Can be Combined With:**
Legislative	Legislative
Quasi-Judicial Administrative Mapping/Land Division	Quasi-Judicial Administrative Mapping/Land Division

(3) The review schedule, notification, and processing requirements for a concurrent review shall follow the longest and most intensive review standards of the submitted requests.

(4) Whenever two or more applications are reviewed concurrently, the applicant shall bear the burden of proving that each application complies with all applicable review and approval criteria. The decision-making body may make the same or different decisions on the submitted requests based on the standards applicable to each review.

(5) Review and decision-making bodies considering applications concurrently shall render separate recommendations and decisions on each application based on the specific standards applicable to each approval.

(f) Application Intake Schedule.

(1) Master Plan Amendments (for both text and map) shall be accepted for review on the designated submittal day in January, April, July, and October.

(2) All other applications, with the exception of Temporary Use Permits (use and special events) and Extensions of Time, shall be accepted for review in accordance with the established submittal schedule.

(g) The Planning Department shall determine whether the application is complete or incomplete for processing no more than 10 days following submittal and shall provide written notification of such determination to the applicant. A complete application submittal shall be processed according to the procedures in this Chapter. An incomplete application shall not be processed or reviewed. Any deficiencies noted by the Planning Department shall be addressed by the applicant prior to resubmitting the application on a subsequent submittal day.

(1) The acceptance of an application as complete does not eliminate the Planning Department's ability to ask for further changes to the design or additional information, including studies or reports.

(h) After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Planning Department. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the Planning Director may approve the refund of fees not expended during the staff review as outlined on the approved fee schedule.

Sec. 32.03.330. – Review and Action.

(a) The Planning Department shall distribute the complete application to appropriate staff and review agencies.

(b) Staff Review and Application Revisions.

(1) Staff shall review the application and shall solicit comments from other applicable City departments and outside review agencies. Staff shall provide recommendations and comments to the applicant at or prior to the Development Review Meeting.

(2) A Development Review Meeting shall be held with the applicant and Staff to discuss staff recommendations and comments. At this meeting, Staff may also request changes to the plans or additional information from the applicant.

(3) The applicant may then take one of the following paths:

a. Modify the application and/or provide the requested information. If the application requires a public hearing, the changes/information shall be received by 5:00 PM on the day before public hearing notices are scheduled to go out in order to make the next Planning Commission and/or City Council agenda.

b. Request additional time to respond to the City's recommendations and comments in writing and be scheduled for a later decision date.

c. Request that the application move forward for a decision without responding to the City's recommendations and comments.

(c) Applications Subject to Staff Recommendation.

(1) If an application is subject to review and recommendation to the Planning Commission and/or City Council, staff shall prepare a written staff report to include:

a. The location and nature of the proposed development;

b. How the application does or does not comply with applicable requirements of this Chapter and/or any other City requirements, including addressing any required findings; and

c. Recommendations on the approval, conditional approval, or denial of the application based on the applicable review criteria in this Chapter.

(2) The Planning Department shall provide the staff report online and the decision-making body at least five days prior to the scheduled meeting. Staff is unable to change the report or the recommended conditions of approval once the staff report is posted.

(d) Applications Subject to Staff Decision.

(1) If an application is subject to staff review and final decision, the Planning Administrator shall make a decision based on the findings applicable to the application type. The decision shall be in writing and shall clearly state reasons for a denial or conditions of approval.

(2) Appeals of Administrative decisions may be made to the Planning Commission pursuant to Sec.XXXX.

(e) Findings Applicable to All Applications.

Unless otherwise specified in this Code, City review and decision-making bodies shall review all development applications and staff reports submitted pursuant to this Article for compliance with the applicable general review criteria stated below.

(1) Consistency with the Fernley Comprehensive Master Plan

The proposed development shall be consistent with the Fernley Comprehensive Master Plan with the following exception. The decision-making body may approve an application that provides a significant public benefit even if the development is contrary to some of the goals, policies, and strategies in the Fernley Comprehensive Master Plan. Significant public benefits include:

a. Affordable Housing
b. Public Infrastructure
c. Protection of Natural Resources

(2) Compliance with this Code
The proposed development shall comply with all applicable standards in this Code unless the standard is lawfully modified or varied through the appropriate application process. Compliance with these standards is applied at the level of detail required for the subject submittal.

(3) Mitigates Traffic Impacts
The project mitigates traffic impacts based on applicable standards of the City of Fernley.

(4) Provides Safe Environment
The project provides a safe environment for pedestrians and people on bicycles.

(5) Rational Phasing Plan (If Applicable)
If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

(f) Conditions of Approval.

(1) General.

a. Where this Code authorizes the Planning Administrator or review body to approve or deny an application subject to applicable criteria or findings, the Planning Administrator or review body may approve the application with conditions necessary to bring the proposed development into compliance with this Code or other regulations, or to mitigate the impacts of that development on the surrounding properties and streets.

b. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the City. Such conditions may include those necessary to carry out the purpose and intent of the Fernley Comprehensive Master Plan, other adopted City plans, and this Code.

c. No conditions of approval shall be less restrictive than the requirements of this Code, except where the Code expressly allows deviations.

d. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

e. During its consideration, the Planning Administrator or decision-making body may consider alternate potential conditions of approval. No discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the Planning Administrator or decision-making body unless and until the Planning Administrator or decision-making body takes formal action to attach that condition to a development approval.

Sec. 32.03.340 – Neighborhood Meetings.

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(a) Purpose

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the affected neighborhood(s) of the details of a proposed development and application, how the applicant intends to meet the standards contained in this Code, and to receive public suggestions, identify neighborhood concerns, and encourage dialogue at an early stage in the review process.

(b) Applicability

(1) Unless waived by the Planning Director, a neighborhood meeting is required for applications as identified in Table 32.03.200-1 – Summary Table of Development Review Procedures.

(2) A neighborhood meeting may be required when the Planning Director determines that the application is likely to cause a significant land use, design, traffic, or other public facility impact on neighboring lands.

(3) The Planning Commission and/or City Council may require a neighborhood meeting prior to taking action on a project when they determine that the application is likely to cause a significant land use, design, traffic, or other public facility impact on neighboring lands.

(c) Timing

When required, at least one neighborhood meeting must be held at least three (3) weeks prior to a public hearing, or as specified by the City. The date in which notices are mailed is not included in the three week requirement.

(d) Time and Place

The neighborhood meeting shall be held at a place that is ADA compliant and generally accessible to neighbors that reside in close proximity to the land subject to the application and shall be scheduled after 5:30 PM on City business days.

(e) Notification

(1) An applicant holding a neighborhood meeting shall provide mailed notice of the meeting to all property owners within one thousand (1,000) feet outside of the project property boundaries a minimum of ten (10) calendar days prior to the Planning Commission and/or City Council hearing.

(2) The applicant shall provide staff a signed affidavit indicating that the notification was completed in accordance with standards of this Section a minimum of two (2) weeks prior to the Planning Commission and/or City Council hearing.

(3) Public notification of a neighborhood meeting shall include, at a minimum:

a. A vicinity map depicting the subject site;

b. The purpose of the neighborhood meeting, with a brief project description;

c. The type of application proposed by the applicant;

d. The date, time, and location of the meeting; and

e. Contact information for the applicant and/or representative.

(f) Conduct of Meeting

At the neighborhood meeting, the applicant shall provide a sign-in sheet, explain the development proposal and application, use appropriate visuals and supply handouts as needed to describe the project, answer any questions, respond to concerns neighbors have about the application, and propose ways to resolve conflicts.

(g) Staff Attendance and Meeting Summary

(1) City staff may attend the neighborhood meeting for the purpose of advising the attendees regarding applicable provisions of this Code, but shall not serve as facilitators or become involved in negotiations at the meeting.

(2) If City staff are in attendance at the neighborhood meeting, they will provide a written summary containing the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information deemed appropriate. The written summary of the neighborhood meeting shall be available to the public.

(3) If City staff are not in attendance at the neighborhood meeting, a written summary of the neighborhood meeting, as described above, shall be provided to staff by the applicant or representative within five (5) business days of the meeting.

Sec. 32.03.350. – Scheduling and Notice of Public Hearings.

(a) If an application is subject to a public hearing per this Chapter, the Planning Administrator shall schedule the public hearing for a regularly scheduled meeting of the appropriate decision-making body.

(1) Under unique circumstances and with the approval of the Planning Director, an application may be scheduled for a special meeting of the appropriate decision-making body.

(b) All public hearings required by this Code shall be preceded by the notices identified in Table 32.03.200-1 – Summary Table of Review Procedures and detailed in this section. Persons with specific issues or concerns regarding a proposed application are encouraged to contact the City of Fernley Planning Department in writing, by phone, or in person prior to the hearing.

(c) The City shall be responsible for the preparation of and proper publication and mailing of notice of the public hearing. The applicant shall be responsible for posting and maintaining any on-site notice required.

(d) Notice Format and Content.

(1) Published and Mailed Notice.

a. Required published and mailed notices shall be published in a newspaper of general circulation or mailed as set forth in NRS Chapter 278 at least ten calendar days before the public hearing unless otherwise specified in this Code. Published and mailed notices shall:

1. Identify the application type;
2. Describe the nature and scope of the proposed project;
3. Identify the location subject to the application;
4. Identify the date, time, and location of the hearing being noticed;
5. Provide a telephone number that may be used by interested persons to obtain additional information;
6. Provide existing and proposed Master Plan and/or Zoning designations if changing.

b. Mailed notices shall be sent via first-class mail to all property owners as listed in the records of the Lyon County Assessor's office within the distances set forth in NRS Chapter 278 as measured from property boundaries.

c. Mailed notices shall be sent via first-class mail to all mobile home park tenants within the same distance as in subsection b above.

d. Although not required in NRS 278, the Planning Department shall make efforts to provide notices to tenants of rental units and apartments within the same distance as in subsection b above.

e. If the distance required for mailing notices includes less than 30 property owners, the minimum distance shall be expanded in concentric circles of 100 feet until the required number of property owners has been reached.

f. Service of a notice shall be effective on the date of mailing. The failure of the property owner(s) to receive any notice served in accordance with this section shall not affect the validity of any proceeding taken under this Code except where otherwise required.

(2) Posted Notice.

a. On-site posted notice shall be required for projects located on more than 5 acres for the following application types:

1. All Legislative applications listed in Sec. 32.03.100(c)(1).
2. Tentative Subdivision Maps (Residential)
3. Conditional Use Permits (Residential)

b. Posted notices shall:

1. Be placed adjacent to and visible from each street abutting the property at least 10 calendar days before the public hearing;
2. Identify the application type;
3. Describe the nature and scope of the proposed project;
4. Include the date, time, and location of the hearing being noticed;
5. Provide a telephone number that may be used by interested persons to obtain additional information;
6. Provide existing and proposed Master Plan and/or Zoning designations if changing.

c. The City shall provide the language for the notice sign(s) 15 calendar days prior to the public hearing.

d. Posted notices shall be laminated, printed on stiff plastic or similar material, or be somehow protected from normal weather conditions to remain readable until the public hearing.

e. Public notice signs shall be a minimum of 3 feet wide by 4 feet tall.

f. The applicant shall remove the public notice signs within five (5) days after the final decision has been made on the application.

1. No refund of any remaining deposit fees will be completed until the sign(s) are removed.

(e) Continued Hearings and Constructive Notice.

(1) A hearing properly noticed under this section may be continued to a later date without again complying with this Chapter's notice requirements, provided the continued hearing is set for a date certain and the date and time of the continued hearing are announced at the time of the continuance.

(2) Minor Defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and location of a hearing shall be strictly construed.

(3) Failure of a party to receive written notice shall not invalidate subsequent action. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Code.

(4) In addition to the minimum noticing set forth in this Chapter, the Planning Administrator may require additional public notice.

Sec. 32.03.360. – Review and Decision.

(a) Hearing, Review, and Decision.

(1) The application shall be subject to review, hearings, recommendations, and decisions as indicated in Table 32.03.200-1 – Summary Table of Development Review Procedures.

(2) If the application is subject to a public hearing, the applicable review body shall hold a public hearing on the application in accordance with the rules and procedures established by the respective bodies and in compliance with the Fernley Municipal Code and state law.

(3) The applicable review body shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing (if required).

(4) The applicable review body shall approve, approve with conditions, or deny the application based on the applicable findings listed in the application-specific procedures. The body may also continue the hearing.

(5) All decisions shall be provided to the applicant and all appellants in writing.

(b) Time Limits for Action, Postponements, and Invalid Applications.

(1) Prior to publishing and mailed notice for an application, the applicant and the Planning Administrator may extend the time limit for action by mutual agreement, and such action shall not be considered a postponement. The applicant has the right to postpone a public hearing or administrative decision if the request is provided to the Planning Department in writing no later than 5:00 PM the day before the scheduled public hearing or decision. In all other cases, the public hearing shall be opened and affirmative action by the body is required to postpone a decision.

(2) Approval of the applicant and all appellants is required in order to postpone a public hearing for applications under appeal. In all other cases, the public hearing shall be opened and affirmative action by the body is required to postpone a decision.

(3) The applicant shall pay for notification and advertising costs caused by requested postponement when filing the request for postponement.

(4) Any application that is postponed by the applicant and is not reactivated by the applicant within 90 days shall become invalid ten (10) days after the Planning Administrator provides a notice of invalidation to the applicant.

(5) Regardless of the stage in the review process, any application which is postponed more than twice by the applicant will become invalid.

Sec. 32.03.370. – Post-Decision Actions and Limitations.

(a) Effective Date of Approval.

Unless otherwise provided in this Code, a decision made under this Chapter shall be final on the date of the decision unless the decision is appealable and an appeal has been filed pursuant to Section 32.XX.XXX – Appeal.

(b) Notice of Decision.

(1) The Planning Administrator shall provide written notification of the decision to the applicant and property owner via personal delivery, electronic mail, or first-class mail to the applicant.

(2) The applicant and/or property owner must sign the notice of decision and return the notice of decision to the Planning Department within 14 days of receipt.

(3) Failure of the applicant and/or property owner to return the notice of decision within the required timeframe shall result in revocation of the approval.

(c) Expiration of Approval.

(1) Some applications may be subject to a schedule of development, a set time period for development of specific improvements, establishment of a specific use or uses for which the approval is requested, and/or the expiration time periods.

(2) A change in ownership of the land shall not affect an established expiration time period of an approval.

(3) A new application is required to be submitted after an application has expired or become invalid.

(4) The applicant shall pay all applicable fees and charges for the new application as if no application had been previously submitted.

(5) The new application shall be regularly scheduled with no priority given because a previous application had been submitted on the matter.

(6) The new application shall be considered as a new project with no priority given because of previous decisions or conditions of approval.

(d) Revocation of Approval.

(1) Failure to comply with any conditions of approval or any expiration of approval of any permit granted through a discretionary action shall result in the initiation of revocation procedures and any other enforcement procedures provided for by the Fernley Municipal Code.

(2) The Planning Commission shall notice and hold a public hearing upon the revocation of any permit granted through a discretionary action.

(3) The Planning Commission shall submit recommendations to City Council and notify the applicant and property owner no later than seven (7) days after the submission of the report to the City Clerk.

(4) The City Council, may, upon receipt of recommendations for revocation of a permit, provide notice of a public hearing to revoke the permit for failure to comply with any conditions or timelines for action associated with the permit. The City Council may also impose additional conditions to the permit if they choose to let the permit stand.

(5) A decision to revoke an approval shall be supported by a finding that the owner or responsible party is in substantial nonconformance with the conditions of approval or City ordinances.

(e) Extension of Approval.

(1) Allowances and restrictions for extensions of approval, if any, are identified by application type in this Code.

(2) If, in order to construct an approved project or operate an approved business, an applicant must first obtain a permit or approval from another governmental agency before applying for a building permit or business license, then, upon submission of appropriate documentation showing reasonable diligence in attempting to secure that permit or approval, the Planning Department shall automatically extend the expiration of the approval for a period of up to 12 months at the discretion of the Planning Director.

(3) If the applicant participates as a defendant or respondent in any legal challenge related to a project approval, then, upon submission of appropriate documentation showing reasonable diligence in resolving the legal challenge, the Planning Department shall automatically extend the expiration of the approval for a period of up to 12 months at the discretion of the Planning Director.

(f) Modification or Amendment of Approval.

(1) The Planning Director may approve minor façade alterations, minor changes in the site plan, and minor changes in the conditions of approval at the request of the applicant and/or owner as long as the Planning Director first determines that:
   a. The proposed changes are consistent with applicable provisions of this Title;
   b. The proposed changes are within the scope of the original approval;
   c. The proposed changes respond to comments made during the public hearing or involve issues that were not contested at the public hearing.

(2) No other changes may be made without an either an amendment to the application (where allowed by individual application types) or the submittal of a new application unless such changes are required as a condition of approval of the original application.

(3) The Planning Administrator may require public notice prior to approving changes on contested projects.

(g) Compliance with Plans.

All work involved in constructing and operating a project approved pursuant to this Code shall comply with all plans, reports, rendering, and materials that were submitted or presented as a part of the approved application. City Codes shall prevail in the event of a conflict between the approved plans and the City Codes in effect when the building permit is reviewed.

(h) Limitation on Subsequent Similar Applications.

An applicant whose application is finally denied may not institute a new application on substantially the same project within 12 months from the date of final action on the original application unless the City Council has first determined that the original decision was based on an error, lack of information, or a misrepresentation of the facts, or the Planning Administrator has determined that there has been a substantial change in the subject project or an amendment to applicable provisions of this Code.

Sec. 32.03.380. – Appeals.

(a) Appeal of Administrative Decisions to Planning Commission

(1) Applicability

The following permit applications subject to an administrative decision may be appealed to the Planning Commission:
   a. Administrative Review
   b. Minor Deviation
   c. Reasonable Accommodation
   d. Temporary Use Permit – Use
   e. Temporary Use Permit – Special Events

(2) Appeal Submittal
   a. Any person or entity aggrieved by an administrative decision may appeal that decision to the Planning Commission by filing a written appeal with the Planning Department within ten (10) business days after the filing of notice of the final action, decision, or order.
   b. The written notice of appeal must briefly specify the grounds of the appeal on the appropriate form accompanied by the required fees.
   c. Any other aggrieved person may file a subsequent appeal within the time allotted for appeal with payment of fees. Any subsequent appeal will not affect the date on which the Planning Commission hears the appeal.
   d. Any appellant may withdraw their appeal.
   e. If any appeal is withdrawn, the Planning Commission shall hear all remaining appeals.

(3) Appeal Scheduling

The City shall schedule an appeal before the Planning Commission no less than 14 days or more than 45 days following the last day of the appeal period following the administrative decision.

(4) Review and Decision

a. The Planning Commission shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS Section 278.310 to determine whether the Planning Administrator committed an abuse of discretion.

b. The Planning Commission, after a public hearing, shall have the power to affirm, reverse, or modify the administrative decision.

(b) Appeal of Planning Commission Decisions to the City Council

(1) Applicability

The following permit applications subject to decision by the Planning Commission may be appealed to the City Council:

a. Amendment to Conditional Use Permit

b. Conditional Use Permit

c. Major Deviation

d. Variance

(2) General

a. The Mayor, any member of the City Council, or any person or entity aggrieved by the decision of the Planning Commission may appeal such decision by submitting an appeal with the Planning Department within ten business days after the date of the Planning Commission decision accompanied by the required fees.

b. Any other person or entity aggrieved by a decision of the Planning Commission may file a subsequent appeal within the time allotted for appeal with payment of fees. Any subsequent appeal will not affect the date on which the City Council will hear the appeal.

c. Any appellant may withdraw their appeal.

d. If any appeal is withdrawn, the City Council shall hear all remaining appeals.

(3) Review Process

a. Scheduling and Notice of Public Hearing

1. The City Clerk shall schedule an appeal from the Planning Commission for public hearing before the City Council no less than 14 days or more than 45 days following the last day of the appeal period following the Planning Commission decision.

2. The City Clerk shall mail notice of the public hearing to the appellant and all others who were mailed a notice of the public hearing before the Planning Commission.

b. City Council Action

1. After the public hearing, the City Council shall review the decision of the Planning Commission and shall be guided by the statement of the purpose underlying the regulation of the improvement of land expressed in NRS Chapter 278.

2. The City Council shall consider the decision of the Planning Commission and the reasons for the decision.

3. The City Council shall affirm, modify, or reverse the appealed decision.

c. City Council Decision
A decision of the City Council is a final decision for the purpose of judicial review.

(c) Judicial Review of First Amendment Applications

(1) Judicial review may be sought in accordance with NRS Chapter 34.

(2) Notwithstanding any right to initiate proceedings for judicial review under NRS Chapter 34, the City shall, upon request for the City to initiate judicial proceedings made by an aggrieved applicant and filed with the City Clerk, within five (5) business days of filing of the request, file an action with a court of competent jurisdiction seeking declaratory and/or injunctive relief, including temporary and/or preliminary relief, as to the propriety of the denial to determine the constitutionality of the denial on prior restraint grounds.

(3) The aggrieved applicant shall make their request within 11 calendar days after the date of filing of the final action, order, or decision with the Clerk of the governing body.

(4) For the purposes of subsections b and c, above, an aggrieved applicant is a person who asserts in their written request for the City to initiate judicial proceedings that the constitutionality of the denial of the application is being challenged on prior restraint grounds under the First Amendment of the United States Constitution or Section 9 of Article 1 of the Constitution of the State of Nevada.

(5) For purposes of subsection b, above, business days do not include Saturday, Sunday, or those days declared legal holidays pursuant to NRS Chapter 236.

Article 4 – Legislative Decisions.

Sec. 32.03.400 – Annexations.

(a) Purpose

The City Council finds that orderly and uniform procedures are necessary for the general welfare of the people. It is the purpose and intent of the City Council to establish this section to govern annexation or detachment of land from the City consistent with NRS XXX.

(1) Detachment
For purposes of this Chapter and Code, the term “annexation” shall include the detachment of land from the city.

(b) Applicability

(1) This section delineates the process and criteria by which the City of Fernley processes annexation applications pursuant to NRS 268.670.

(c) Application Submittal and Review Procedures

(1) Application Submittal and Handling
Annexation applications shall be initiated by a property owner or developer, the Planning Department, or City Council. An Annexation application shall be submitted, accepted, or revised pursuant to Section 32.03.XXX – Application Submittal and Handling.

(2) There are no time limits for public hearings, Planning Commission decisions, or City Council decisions regarding Annexations.

(3) Staff Review and Action
The Planning Administrator shall review the Annexation and prepare a staff report and recommendation in accordance with Section 32.03.XX – Review and Action.

(4) Scheduling and Notice of Public Hearings

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The Annexation application shall be scheduled for a public hearing before the Planning Commission and noticed pursuant to Section 32.03.XXX – Scheduling and Notice of Public Hearings.

(5) Planning Commission Review and Action
The Planning Commission shall hold a public hearing and thereafter, address the requirements of NRS Section 278.670 (as applicable). By affirmative vote, the Planning Commission may recommend to the City Council approval, approval with modifications, or disapproval of the proposed Annexation pursuant to Section 32.03.XXX – Review and Decision.

(6) Review and Decision
By affirmative vote of a majority of the City Council, the Council shall approve, disapprove, or approve with modifications pursuant to Section 32.03.350. – Review and Decision.

(7) Post-Decision Actions and Limitations.
All common procedures in Section 32.03.360. – Post-Decision Actions and Limitations shall apply.

(d) Findings
To adopt an amendment to the Master Plan Land Use Map, the City Council shall find that:
(1) The Annexation is in substantial conformance with Master Plan priorities and policies.
(2) The Annexation conforms to the requirements of NRS Chapter 268.
(3) The Annexation conforms with any adopted community management plan adopted by Lyon County.
(4) The Annexation does not create any islands.
(5) The Annexation can demonstrate positive benefits to the City in the following categories:
a. Location of the property to be considered for Annexation
b. The logical extension of City limits
c. The need for the expansion to accommodate planned regional growth
d. The location of existing and planned water and sewer service
e. Community goals that would be met by the proposed Annexation
f. The efficient and cost-effective provision of service areas and capital facilities
g. Fiscal analysis regarding the proposed Annexation
h. Any other factors concerning the proposed Annexation deemed appropriate for consideration by the City Council.

(e) Land Use/Zoning Classification of Newly Annexed Lands
(1) All undeveloped parcels annexed into the City limits will automatically be designated as General Rural (GR) in the Comprehensive Master Plan and General Rural-20 acre minimum (GR20) on the City Zoning Map.
(2) All developed parcels annexed into the City limits will be assigned Land Use and Zoning designations compatible with the existing use, unless otherwise approved by the City Council.

(f) Subsequent Applications
If the Annexation application is not approved, an application to annex the same or substantially the same area will not be accepted for at least one year after the date of disapproval.

Sec. 32.03.410 – Comprehensive Master Plan Map Amendment
(a) Purpose.

This section describes the process by which requests to amend the Land Use Map of the City of Fernley Comprehensive Master Plan are reviewed. Master Plan Map Amendments shall also be consistent with NRS Sections 278.150 to 278.250, inclusive.

(b) Applicability.

This section shall be applicable to all requests to amend the Land Use Map of the Master Plan.

(c) Application Submittal and Review Procedures.

(1) Application Submittal and Handling.

Master Plan Map Amendment applications shall be initiated by a property owner or developer, the Planning Department, Planning Commission, or City Council. A Master Plan Map Amendment application shall be submitted, accepted, revised, or withdrawn pursuant to Section 32.03.XX – Application Submittal and Handling.

(2) There are no time limits for public hearings, Planning Commission decisions, or City Council decisions regarding Comprehensive Master Plan Map Amendments.

(3) Staff Review and Action.

The Planning Administrator shall review the Master Plan Map Amendment and prepare a staff report and recommendation in accordance with Section 32.03.XX – Review and Action.

(4) Scheduling and Notice of Public Hearings

The Master Plan Map Amendment application shall be scheduled for a public hearing before the Planning Commission and noticed in pursuant to Section 32.03.340 – Scheduling and Notice of Public Hearings.

(5) Planning Commission Review and Action.

The Planning Commission shall hold a public hearing and thereafter, address the requirements of NRS Section 278.210 (as applicable). By affirmative vote of a super-majority the Planning Commission may recommend to the City Council approval, approval with modifications, or disapproval of the proposed amendment pursuant to Section 32.03.350. – Review and Decision.

(6) Review and Decision.

By affirmative vote of a majority of the City Council, the Council shall approve, disapprove, or approve with modifications pursuant to Section 32.03.350. – Review and Decision.

(7) Post-Decision Actions and Limitations.

All common procedures in Section 32.03.360. – Post-Decision Actions and Limitations shall apply.

(d) Findings.

To adopt an amendment to the Master Plan Land Use Map, the City Council shall find that:

(1) The amendment is in substantial conformance with Master Plan priorities and policies.

(2) Activities and development allowed by the proposed land use will be reasonably compatible with nearby land uses.

Sec. 32.03.420 – Comprehensive Master Plan Text Amendment

(a) Purpose.

This section describes the process by which requests to amend the text of the City of Fernley Comprehensive Master Plan are reviewed. Master Plan Text Amendments shall also be consistent with NRS Sections 278.150 to 278.250, inclusive.

(b) Applicability.

This section shall be applicable to all requests to amend the text of the Master Plan.

(c) Application Submittal and Review Procedures.

(1) Application Submittal and Handling.
Master Plan Text Amendment applications shall be initiated by the Planning Department, Planning Commission, or City Council. A Master Plan Text Amendment application shall be submitted, accepted, revised, or withdrawn pursuant to Section 32.03.XX – Application Submittal and Handling.

(2) There are no time limits for public hearings, Planning Commission decisions, or City Council decisions regarding Comprehensive Master Plan Text Amendments.

(3) Staff Review and Action.
The Planning Administrator shall review the Master Plan Text Amendment and prepare a staff report and recommendation in accordance with Section 32.03.XX – Review and Action.

(4) Scheduling and Notice of Public Hearings.
The Master Plan Text Amendment application shall be scheduled for a public hearing before the Planning Commission and noticed in pursuant to Section 32.03.340 – Scheduling and Notice of Public Hearings.

(5) Planning Commission Review and Action.
The Planning Commission shall hold a public hearing and thereafter, address the requirements of NRS Section 278.210 (as applicable). By affirmative vote of a super-majority the Planning Commission may recommend to the City Council approval, approval with modifications, or disapproval of the proposed amendment pursuant to Section 32.03.350. – Review and Decision.

(6) Review and Decision.
By affirmative vote of a majority of the City Council, the Council shall approve, disapprove, or approve with modifications pursuant to Section 32.03.350. – Review and Decision.

(7) Post-Decision Actions and Limitations.
All common procedures in Section 32.03.360. – Post-Decision Actions and Limitations shall apply.

(d) Findings.
There are no specifically required findings for a Master Plan Text Amendment. The City Council shall use its discretion when deciding the Master Plan Text Amendment.

Sec. 32.03.430 – Development Agreement.

(a) Purpose and Intent.
The purpose of this Chapter is to give assurance to the property owner who has obtained the necessary approvals for a project that they may proceed with and complete the development under the specified laws, ordinances, codes, resolutions, rules, regulations, pleas, and conditions of approval adopted by the City Council and in effect at the time the project was originally approved in return for specified benefits pursuant to the terms of a Development Agreement.

(b) Applicability.
Pursuant to the provisions of NRS 278.0201 through 278.0207, the City Council may enter into Development Agreements to regulate the development of land within the City of Fernley. Development Agreements and the procedures applicable thereto shall be governed by and must conform to NRS 278.0201 through 278.0207 and the provisions of this Chapter. The Planning Administrator, in consultation with the City Attorney and other City departments, has authority to apply, administer, and enforce this Section, including the negotiation and enforcement of Development Agreements.

(c) Initiation.

An applicant shall file an application for a Development Agreement, along with the proposed Development Agreement and filing fee, as established by City Council resolution.

(d) Application Submittal and Review Procedure.

(1) Filing Requirements.

An application for a Development Agreement shall be filed on forms prescribed by the Planning Department and shall include the following:

a. The legal description of the property involved;
b. A map showing the property and the surrounding parcels and their Assessor's Parcel Numbers;
c. A written description of the proposed development and statement of objectives and reasons for the request;
d. A list of associated approvals and the conditions of approval of those approvals.
e. A statement of the proposed duration of the Development Agreement;
f. The proposed Development Agreement;
g. Any other information needed to provide a complete understanding of the proposed Development Agreement;
h. A filing fee as established by City Council resolution.

(2) The Planning Administrator shall review the application and may reject it as inaccurate or incomplete for processing. Such rejection shall be in writing and shall be accompanied by the reasons for rejection. The applicant may modify or amend the application in accordance with the Planning Administrator's rejection without paying an additional filing fee.

(3) Contents.

a. A Development Agreement shall:

1. Describe the land subject to the Development Agreement;
2. Provide, where appropriate, for reservation or dedication of land for public purposes, including, but not limited to rights-of-way, easements, or public facilities as may be required or permitted pursuant to laws, ordinances, resolutions, rules, or plans adopted by the City of Fernley and in effect at the time of entering into the Development Agreement;
3. Specify the duration of the Development Agreement and, if desired, terms for modification and extension of the Development Agreement; provided that the parties shall not be precluded from extending the termination date by mutual agreement or from entering into subsequent Development Agreements or supplements thereto;
4. Specify progress thresholds based upon the construction of specific public or private improvements or the submission of specific plans or data prior to the exercise of certain vested rights;
5. Specify the laws, ordinances, codes, resolutions, regulations, design, and improvement standards by name and date of adoption applicable to the development of the land for which the applicant intends to establish a vested private development right;
6. Specify other conditions, terms, restrictions, and requirements for other discretionary actions;
7. Commit no vested rights other than those allowed in the Development Agreement and otherwise provided under Nevada Revised Statutes or other state or local government; and

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8. Not be used to circumvent the entitlement and/or discretionary review process.

b. A Development Agreement may:

1. Provide for commencement and completion of various portions of the proposed development. Each portion or phase of development or improvement contemplated should be able to stand alone, independent of proposed further phases or improvements. Subsequent phases of development may be added to completed phases to achieve independent status;
2. Include conditions imposed by other land use and permit approvals allowed by law as of the effective date of the Development Agreement.
3. If required by the City, be accompanied by a form of security as defined in Chapter 32.XX of this Code as subsequently amended, or require submittal of a security with project phases. The security shall be posted by the property owner to insure provision of some or all of the public facilities;
4. Contain an indemnity or insurance clause requiring the developer, applicant, and/or property owner to indemnify the City against certain claims arising out of the development process;
5. Contain a clause regarding remedies to each party in the event of a default; and
6. Include provision(s) which insure(s) to the benefit of the City or community which might not otherwise be provided by the developer to the City or community in the absence of the agreement;
7. Cover any other matter not inconsistent with this Code.

(4) Review and Approval Process.

a. The procedure for review of Development Agreements shall be in accordance with Sec. 32.XX.XXX.

b. The Planning Administrator shall review the application and prepare a staff report and recommendation in accordance with Sec. 32.03.XXX. – Review and Action.

c. The City Council shall hold a public hearing on all proposed Development Agreements. The Development Agreement application shall be scheduled for a public hearing before the City Council and noticed in accordance with Sec. 32.03.XXX. – Scheduling and Notice of Public Hearings.

1. There are no time limits for public hearings or decisions on Development Agreements.

d. The City Council shall approve a Development Agreement by adoption of an ordinance. The Development Agreement shall take effect upon the effective date of the ordinance.

(5) Findings.

The City Council may enter into a Development Agreement when it can make the following findings:

a. A Development Agreement is an appropriate mechanism to implement the project's development due to the project's complexity, such as:

1. Public and/or private infrastructure requirements;
2. Proposed phasing and/or build-out schedules; and

3. Some other way which would be of benefit and in the best interest of the city.

b. The Development Agreement is not in conflict with and supports the objectives, policies, general land uses, and programs specified in the City of Fernley Comprehensive Plan.

c. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the zoning district(s) in which the property is proposed to be located and is consistent with the associated approvals.

d. The Development Agreement is in conformity with the public convenience and good land use practices.

e. The Development Agreement will not be detrimental to the public health, safety, and general welfare.

f. The Development Agreement will not adversely affect the orderly development of property and adequate consideration has been given to projected infrastructure capacity demands in the immediate area.

g. The Development Agreement is consistent with the provisions of NRS Chapter 278.

(e) Applicable Laws and Ordinances.

(1) Where specified in the Development Agreement, the laws, ordinances, codes, resolutions, regulations, design, and improvement standards listed by name and date of adoption apply to the development of the land. Unless specified in the Development Agreement or unless directly in conflict with what is specified in the Development Agreement, the laws, ordinances, codes, resolutions, rules, regulations, and design and improvement standards adopted by the City Council and in effect at the time of issuance of any required construction or building permit shall apply.

(2) A Development Agreement shall not prevent the City from adopting new laws, ordinances, codes, resolutions, design, and improvement standards or regulations that alter or amend those laws, ordinances, codes, resolutions, design and improvement standards and regulations in effect at the time the Development Agreement is made. A Development Agreement does not prevent the City, in subsequent actions applicable to the property from applying new laws, ordinances, codes, regulations, resolutions, design, or improvement standards which do not conflict with those laws, ordinances, codes, regulations, resolutions, design, or improvement standards applicable to the property under the Development Agreement, nor does a Development Agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

(3) The City may suspend the issuance of building permits for the development project after a noticed public hearing if it finds in good faith that it is necessary to protect the residents of the project or the immediate community, or both, from a condition hazardous or perilous to the residents' health and/or safety.

(4) In the event that state or federal laws or regulations enacted after a Development Agreement has been entered into prevent or preclude compliance with one or more of the provisions of the Development Agreement, such provisions may be modified or suspended as may be necessary to comply with the new state or federal laws or regulations after the City and the property owner have attempted to mutually agree upon the modification or suspension. Any such action may only be taken by the City Council after a public hearing.

(f) Mutual Amendment or Cancellation.

(1) The Development Agreement may be amended or canceled, in whole or in part, by mutual consent of the parties or their successor in interest in accordance with NRS 278.0205.

(2) Notice of the intention to amend or cancel any portion or all of a Development Agreement must be given in accordance with this section. The City Council may, after conducting a public hearing, approve any amendment or cancel any portion or all of an agreement by ordinance if the amendment or cancellation is consistent with Sec. 32.03.XXX. – Findings, above.

(g) Cancellation by City

(1) If at any time during the term of a Development Agreement the City Council finds by substantial evidence that the property owner has not complied with the terms and conditions of the Development Agreement and such noncompliance has not been cured after notice and an opportunity to cure as specified in the Development Agreement the City may amend or cancel the Development Agreement without the consent of the property owner.

(2) Prior to amending or canceling a Development Agreement due to noncompliance, notice of intention to amend or cancel shall be provided as follows:

a. In writing to the property owner at least 30 days prior to the hearing; and

b. The City Council shall conduct a public hearing at which the property owner and any other interested person shall be entitled to submit such evidence and testimony as may be germane to the issue of the property owner's compliance with the terms of the Development Agreement.

(3) After conducting a hearing, the City Council may amend or cancel the Development Agreement, in whole or in part, o take other action considered necessary to protect the interests of the City.

(h) Rights of the Parties After Cancellation or Termination.

In the event that a Development Agreement should be canceled or otherwise terminated, unless otherwise agreed, all rights, except those already vested, of the property owner under the Development Agreement shall terminate. The property owner can proceed with the development pursuant to permits issued prior to the date of termination and under the existing rules, regulations, and ordinances of the City absent the Development Agreement.

Sec. 32.03.440 – Development Code Text Amendment

(a) Purpose.

This section describes the process by which changes to the text of this Code are reviewed. The Development Code Text Amendment review procedure ensures conformance with the Master Plan and that potential impacts are considered.

(b) Applicability.

This section's procedures apply to all legislative amendments to the text of this Code.

(c) Amendment Initiation and Review Procedures.

(1) Application Submittal and Handling.

Amendment to this Code may only be initiated by the Planning Director, Planning Commission, or the City Council.

(2) Staff Review and Action.

The Planning Administrator shall prepare and/or review the text amendment and provide a recommendation to the Planning Commission.

(3) Scheduling and Notice of Public Hearing

The text amendment shall be scheduled for a public hearing before the Planning Commission and noticed pursuant to Section 32.03.340 - Scheduling and Notice of Public Hearings.

(4) Planning Commission Review and Action.
The Planning Commission shall hold a public hearing on a proposed Development Code text amendment and shall forward a recommendation of approval, approval with modifications, or disapproval of the proposed amendment to the City Council pursuant to Section 32.03.350. – Review and Decision.

(5) Review and Decision.
At a public hearing, by affirmative vote of a majority of the City Council, the City Council shall approve, disapprove, or approve with modifications in pursuant to Sec. 32.03.350. – Review and Decision.

(6) Post-Decision Actions and Limitations
All common procedures in Section 32.03.360. – Post-Decision Actions and Limitations shall apply.

(d) Findings.
Development Code Text Amendments shall be in substantial conformance with the City of Fernley Comprehensive Plan and the intent and purpose of this Code as set forth in Section 32.XX.XX – Purpose.

Sec. 32.03.450 – Minor Comprehensive Master Plan Amendment

(a) Purpose.
This section describes the process by which minor amendments to the City of Fernley Comprehensive Master Plan are processed.

(b) Applicability.
This section shall be applicable to the following requests to amend the Master Plan as authorized by NRS Section 278.225.

(1) A change in a boundary that is based on a geographical feature, including, without limitation, topography, slopes, hydrographic features, wetland delineation and floodplains, when evidence is produced that the mapped location of the geographical feature is in error.

(2) A change made to reflect the alteration of the name of a jurisdiction, agency, department or district by the governing body, governing board or other governing authority of the jurisdiction, agency, department or district, as applicable, or by another entity authorized by law to make such an altercation.

(3) An update of statistical information that is based on a new or revised study.

(c) Application Submittal and Review Procedures

(1) Application Submittal and Handling
Minor Comprehensive Master Plan Amendment applications shall be initiated by the Planning Department, Planning Commission, or the City Council.

(2) Staff Review and Action
The Planning Department shall prepare the Minor Comprehensive Master Plan Amendment and provide a recommendation to the Planning Commission and City Council in accordance with Sec. 32.03.XXX – Review and Action.

(3) Scheduling and Notice of Public Hearings
The Minor Comprehensive Master Plan Amendment application shall be scheduled for a public hearing before the Planning Commission and City Council in accordance with Sec. 32.03.XXX – Scheduling and Notice of Public Hearings.

(4) Review and Decision

a. There are no time limits for public hearings, Planning Commission decisions, or City Council decisions regarding Minor Comprehensive Master Plan Amendments.

b. By affirmative vote of a super-majority of Planning Commission, the Planning Commission may recommend approval or denial to the City Council in accordance with Sec. 32.03.XXX – Review and Decision.

c. By affirmative vote of a majority of City Council, the Council shall approve, deny, or approve a proposed amendment with modifications in accordance with Sec. 32.03.XXX – Review and Decision.

(5) Post-Decision Actions and Limitations

All common procedures in Sec. 32.03.XXX – Post-Decision Actions and Limitations shall apply.

(d) Findings.

To adopt a Minor Comprehensive Master Plan Amendment, the City Council shall find that a change is justified because of one of the following:

(1) Evidence is produced that an error exists in the mapped location of a geographical feature, including without limitation, topography, slopes, hydrographic features, wetland delineation, and floodplains.

(2) The name of a jurisdiction, agency, department, or district is altered by the City, governing board, or other governing authority of the jurisdiction, agency, department, or district as applicable or another entity authorized by law to make such an alteration; or

(3) Statistical information that results from a new or revised study and alters existing information.

Sec. 32.03.460 – Planned Development

(a) Purpose.

The purpose of the Planned Development (PD) District is to permit and encourage comprehensively planned developments by providing flexibility in the distribution of land uses, in the density of development, and in other matters typically regulated in traditional zoning districts.

(b) Rezoning and Minimum Site Area.

(1) Property may be rezoned to the Planned Development District by the City Council in accordance with the requirements of this Section and Section 32.03.030. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. The rezoning shall include the adoption of a specific master development plan and development standards.

(2) The minimum site area is forty (40) acres. The City Council may waive this minimum if the proposal furthers the goals of the City's Comprehensive Master Plan.

(c) Application Requirements.

(1) Concept Plan Review. In the case of property that is sought to be reclassified to the Planned Development District, the applicant must submit conceptual plans and meet with the administrator, or the administrator's designee, before the City has any obligation to accept the rezoning application as complete. At the meeting, the administrator or the administrator's designee shall:

a. Ask questions of the applicant to clarify their understanding of the applicant's intent;

b. Ensure the applicant understands all required steps in the development review process; and

c. State any concerns identified by staff based on preliminary review of project plans and materials.

(2) In addition to the submittals required by Section 32.03.030, the following must accompany an application for rezoning submitted by a property owner:

a. A statement by the applicant describing how the proposed development departs from the otherwise applicable standards of this Code and how the proposed development is an improvement over what would otherwise be required by applicable development regulations.

b. A metes and bounds description of the proposed Planned Development District.

c. A proposed master development plan for the entire site.

d. Development standards that are proposed to be applied to the development. The development standards must include provisions regarding the installation of utility boxes and above ground utilities that are at least as restrictive as those set forth in this Title for comparable development.

e. Any proposed conditions, covenants, and restrictions for the development including easements and grants for public utilities.

f. The location of primary and secondary thoroughfares proposed for the development, including right-of-way widths and the location of access points to abutting streets.

g. Identification of all rights-of-way, easements, open spaces or other areas to be dedicated, deeded or otherwise transferred to the City.

h. A plan for the extension of any necessary public services and facilities, including sewer facilities and facilities for flood control and drainage.

i. Guidelines for the physical development of the property, including illustrations of proposed architectural, urban design, landscape, open space, and signage concepts.

j. The location and description of all buffering that is proposed between the development site and adjacent properties.

k. Additional information and details may be required in order to respond to the unique characteristics of the site and its location.

l. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for additional approval of all sections of the PD District are intended to be filed.

(3) If the land uses proposed by the project differ significantly from the land uses allowed by the existing Master Plan designation for the area, an application for rezoning to the PD District must be accompanied by and processed concurrently with an application for a comprehensive master plan amendment to ensure that the land uses proposed by the project are consistent with the Comprehensive Master Plan.

(d) Permitted Uses and Standards

(1) Any combination of residential, commercial, industrial, or public uses may be permitted within a specific Planned Development District to the extent they are consistent with the Master Development Plan for that District. The uses to be permitted within the District must be specified in the adopted Master Development Plan for the District. Because of the nature and purpose of the PD District, and notwithstanding any other provision of this Section:

a. An application to rezone property to the PD District may be denied by the City Council, at its complete discretion, if it finds that the proposed development is incompatible or out of harmony with surrounding uses or the pattern of development within the area.

b. No use, type of development or development standard is presumptively permitted within the PD District unless it already has been included in the adopted plan for the District.

c. An application to allow within the PD District a particular use, type of development or development standard which has not already been included in the adopted plan for the District may be denied if it is incompatible or out of harmony with the surrounding uses or the pattern of development within the area.

(2) Density. For PD Districts with residential development, the master development plan shall establish the maximum number of dwelling units per gross acre for each residential category (e.g., single family, multi-family, etc.) as well as for the entire development. Factors to be considered in assigning density are:

a. Site analysis;

b. Topography;

c. Drainage ways;

d. Views;

e. Soils;

f. Layout of lots;

g. Site sectional studies.

(3) Open space.

a. Subject to the limitations of this section, all developments that include residential uses must provide for, within the Planned Development district boundary, a minimum of 20 percent of the gross area of the site as common usable open space.

b. Irrespective of its size, no golf course may contribute more than one-quarter of the common open space required by this section.

c. The common open space required by this section may be reduced by one quarter if it can be demonstrated to the satisfaction of the administrator that the common open space is:

1. Landscaped, in a manner which exceeds the minimum standards imposed in chapter 32.09;
2. Is interconnected with a trail system;
3. Accessible from other portions of the development, with said accessibility provided for in the development plan;
4. For nonresidential development the common open space requirement can be met by providing a minimum of 20 percent of the development as landscaped area, which exceeds the minimum standards imposed in chapter 32.09.

d. Developments that do not include residential uses must provide for, within the Planned Development district boundary, a minimum of 10 percent of the gross site area as open space, which can be met by providing a combination of landscaping, trails, sidewalks, and bicycle lanes.

e. Land dedicated to and accepted by the City shall not constitute common open space for the purposes of this chapter except as otherwise provided in an approved development agreement.

(4) Buffer zones.

a. The applicant must demonstrate, to the satisfaction of the administrator, that the proposed buffer zones between dissimilar uses within the development is sufficient.

b. Special design considerations such as height controls, density controls, architectural modifications, and landscaping buffers shall be incorporated in any portion of the development which adjoins a previously approved entitlement.

(5) Landscaping on private property. Because a planned development may allow for increases in density, additional landscaping requirements may be imposed by the administrator for Planned Developments with residential development. The developer must provide an incentive plan for front yard landscaping and automated irrigation for single-family homes which will be approved as a part of the development standards.

(6) Existing projects. Existing projects may be considered for planned development if, in the opinion of the administrator, they do not pose any health, safety or welfare problems.

(7) Dedication. Any land or interest therein within a planned unit development may be dedicated to the city for public use and maintenance, although the city is under no obligation to accept such dedication.

(8) Maintenance of common open space.

a. Common open space areas, which may include walkways with public access easements, shall be maintained as permanent open space through at least one of the following options: common ownership by a property owner's association, held in deed-restricted private ownership, or dedication to the City or to another appropriate public agency.

b. All methods utilizing private ownership shall be in a form approved by the City Attorney, who shall review the documents to ensure perpetual maintenance, preservation, and restricted usage where applicable.

(e) Approval of Master Development Plan and Development Standards.

(1) The Planning Commission shall hold a public hearing on the proposed PD zone change and, within 60 days of the public hearing, make a recommendation to the City Council.

(2) After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed PD zone change.

(3) In connection with the approval of a Planned Development District, the City Council shall adopt a Master Development Plan and Development Standards, which will thereafter govern the development of property within the District. The approved Master Development Plan and Development Standards for a Planned Development District shall be recorded with the applicable rezoning ordinance and a statement listing all conditions of approval.

(4) In considering the approval of a Master Development Plan and Development Standards for a Planned Development District, the Planning Commission and City Council shall be guided by the following objectives, and may impose such conditions and requirements deemed necessary to meet those objectives:

a. Consistency of the proposed development with the City's Comprehensive Master Plan and other applicable plans, policies, standards, and regulations.

b. Compatibility of the proposed development with adjacent and surrounding development.

c. Minimization of the development's impact upon adjacent roadways and neighborhood traffic, and upon other public facilities and infrastructure.

d. Protection of the public health, safety, and general welfare.

(f) Modification of Master Development Plan and Development Standards.

(1) The development of property within the Planned Development District may proceed only in strict accordance with the approved Master Development Plan and Development Standards. Any request by or on behalf of the property owner, or any proposal by the City, to modify the approved Master Development Plan or Development Standards shall be filed with the administrator. A Minor Modification is a modification which is requested or agreed to by the property owner and which is intended to accomplish one or more of the following:

a. A change in the location of a use from the location specified in the approved Master Development Plan, but only if the change in location will not have a significant impact on other uses in the area.

b. The addition of uses that are comparable in intensity to those permitted in connection with the rezoning approval or the approval of a Master Development Plan for the District.

c. A change in parking lot layout, building location or other similar change that conforms with the intent of the previously approved Master Development Plan and Development Standards.

d. A change in the species of plant material proposed for the District.

e. A decrease in the density or intensity of development from that previously approved for the District.

f. Any other change or modification of a similar nature which the administrator determines will not have a significant impact on the District or its surroundings. A Minor Modification shall be reviewed and acted upon administratively by the administrator. An applicant who is aggrieved by the administrator's decision may appeal that decision to the Planning Commission by filing a written appeal with the administrator no later than 10 days after the date the applicant receives notice of the administrative decision.

(2) Major Modification. A Major Modification includes any modification which does not qualify as a Minor Modification. A Major Modification shall be processed in accordance with the procedures and standards applicable to a rezoning application.

(g) Administrative Review.

All development within a PD District is subject to the administrative review procedures set forth in Section 32.03.050 except as otherwise provided in a development agreement.

(h) Issue Resolution – Analogous Standards.

With regard to any issue of land use regulation that may arise in connection with a Planned Development District and that is not addressed or provided for specifically in this Section or in the approved Master Development Plan and Development Standards for that District, the administrator may apply by analogy the general definitions, principles, standards, and procedures set forth in this Title, taking into consideration the intent of the approved Master Development Plan and Development Standards.

Sec. 32.03.470 – Zoning Map Amendment (Rezoning)

(a) Purpose.

This section describes the process by which requests to change the zoning district of a property or properties are reviewed for compliance with this Code. The Zoning Map Amendment review procedure ensures conformance with the Master Plan and that potential impacts are concerned.

(b) Applicability.

This section shall be applicable to all requests to change the zoning district of a property or properties as shown on the official zoning map of the City of Fernley.

(c) Application Submittal and Review Procedures.

(1) Amendments to the Zoning Map may be initiated by staff, Planning Commission, City Council, or application pursuant to Sec. 32.03.XXX. – Application Submittal and Handling.

(2) The Planning Administrator shall review the Zoning Map Amendment and prepare a staff report and recommendation pursuant to Sec. 32.03.XXX. – Review and Action.

(3) The Zoning Map Amendment application shall be scheduled for a public hearing before the Planning Commission and noticed pursuant to Sec. 32.03.XXX. – Scheduling and Notice of Public Hearings.

(4) Planning Commission Review and Action.

a. Unless waived by the applicant, the Planning Commission shall hold a public hearing within 65 days of application.

b. The Planning Commission shall recommend approval or denial pursuant to Sec. 32.03.XXX. – Review and Decision, based on the general approval criteria pursuant to Sec. 32.03.XXX. – Findings Applicable to all Applications, and the specific findings for Zoning Map Amendments in Sec. 32.03.XXX. – Findings below.

(5) Review and Decision.

a. A public hearing shall be scheduled before the City Council no more than 60 days following the Planning Commission recommendation.

b. The City Council shall approve or deny the Zoning Map Amendment pursuant to Sec. 32.03.XXX. – Review and Decision, based on the general approval criteria pursuant to Sec. 32.03.XXX. – Findings Applicable to all Applications, and the specific findings for Zoning Map Amendments in Sec. 32.03.XXX. – Findings below.

(6) All common procedures in Sec. 32.03.XXX. – Post-Decision Actions and Limitations shall apply

(d) Findings.

(1) All applications for Zoning Map Amendments shall meet the criteria in Sec. 32.03.XXX. – Findings Applicable to all Applications, and the following findings:

a. The Amendment does not conflict with the provisions of NRS Section 278.250(2); and

b. The Amendment conforms with the City of Fernley Comprehensive Master Plan.

Article 5 – Entitlements

Sec. 32.03.500 – Administrative Review

(a) Purpose

This section describes the process by which proposed development is reviewed for compliance with the development and design standards of this Code. The Administrative Review procedure ensures that potential impacts of development are considered before submittal of an application for construction plan approval or issuance of a building permit.

(b) Applicability

Approval of an Administrative Review according to the procedures and criteria in this section is required for the following development applications and activities, unless exempted elsewhere in this section.

(1) All development activities expressly made subject to the Administrative Review in the Use Table in Sec. 32.XX.XXX.

(2) Unless a Conditional Use Permit is otherwise required, all commercial, industrial, or multi-family (three units or more) development, including grading, construction, building expansion, addition of accessory buildings/structures, changes in parking or landscaping, and/or other changes to the site.

(3) Exceptions

The following are exempt from the Administrative Review procedure but are subject to the standards of this Code.

a. Residential accessory building/structure less than 200 square feet and not on a permanent foundation.

b. Rooftop solar panels in any zoning district.

c. Replacement of existing mechanical equipment with equipment of comparable size and material.

d. Replacement of exterior building features that do not change the footprint of the building (windows, doors, roofing, etc.).

(c) Application Submittal and Review Procedure

(1) Application Submittal and Handling.

Administrative Review applications shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.

(2) Staff Review and Decision.

The Planning Administrator shall review the application and shall approve, approve with conditions, or deny the application for review within 30 days of receiving the completed application in accordance with Sec. 32.XX.XXX – Determination of Application Completeness. The decision shall be based on the general criteria in 32.XX.XXX – Findings Applicable to all Applications and the specific findings found in this Section.

(3) Appeal.

The decision of the Planning Administrator may be appealed to the Planning Commission in accordance with Sec. 32.XX.XXX – Appeal.

(4) Post-Decision Actions and Limitations.

All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply, with the following modifications:

a. No Building Permit without Approval.

1. The Administrative Review, as approved by the Planning Administrator, shall accompany the plans submitted for building permit approval, and all development of the property shall be in accordance with the approved plan.

2. No building permit shall be issued until the Administrative Review application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted “at risk” with no refunds due if the Administrative Review is not finally approved.

b. Time Limitations and Extensions.

1. Administrative Reviews that accompany Tentative Maps shall be valid as long as the Tentative Map is valid.
2. The owner or developer shall apply for a building permit for the entire project (or the first phase of the project) within 18 months of the date of approval of the Administrative Review application and maintain the validity of that permit, or the Administrative Review shall be null and void unless a different time limitation was established at the time of final approval or the project falls under Sec. 32.XX.XXX – (section that says they get longer if working with other agencies). If the project is phased, subsequent phases shall receive a building permit within the following 18 months.
3. The Planning Administrator may extend the time limit by 12 months if an application for an Extension of Time is received any time prior to the expiration of the time limit, provided that:
   [a] The applicant agrees to comply with all requirements of this Code and all approved or proposed conditions of approval; and
   [b] The applicant agrees to pay all applicable fees.
4. No more than one (1) Administrative Review extension of time shall be approved for any project or project phase.

(d) Findings

(1) In addition to meeting the criteria in Sec. 32.XX.XXX – Findings Applicable to All Applications, the following findings shall be made prior to granting an Administrative Review permit:

a. The proposed design is compatible with surrounding development.
b. The proposed design is consistent with applicable development standards.
c. Public services and facilities are available to serve the project, or will be provided with development.
d. The characteristics of the project as proposed and/or conditioned are reasonably compatible with the types of development permitted in the surrounding area;
e. The approval will not be materially detrimental to the public health, safety, or welfare to people or property due to noise, smoke, odor, dust, vibration, or light.

(e) Amendments/Modifications

(1) Amendments or Modifications to an approved Administrative Review requested by the applicant and/or property owner that do not fall under Sec. 32.03.360(f)(1) – Modification or Amendment of Approval shall be processed following the same procedure found in subsection c of this section, provided:

a. The Administrative Review has not expired.
b. The proposed amendment complies with the Comprehensive Master Plan.

(2) An amendment to an approved Administrative Review is also required in the following situations:

a. One or more of the conditions of approval cannot be met.
b. There are substantial material changes in the project.
c. Proposed changes to an approved project will materially impact surrounding properties.

(3) Applications for an amended Administrative Review may result in updated conditions of approval to address changing circumstances since the original approval.

(4) An Administrative Review may be amended one time. If additional amendments are needed, the applicant or property owner shall submit for a new Administrative Review.

(f) Forward for Approval by Planning Commission

The Planning Director may determine that an Administrative Review application be forwarded to the Planning Commission for approval if there are circumstances that complicate a typical administrative approval.

Sec. 32.03.510 – Conditional Use Permit.

(a) Purpose

The Conditional Use Permit procedure provides a mechanism for the City to evaluate proposed land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts.

(b) Applicability

Approval of a Conditional Use Permit is required for the following uses and activities unless exempted elsewhere in this Section:

(1) All principal, accessory, and temporary uses listed or referenced in Sec. 32.XX.XXX – Table of Allowed Uses as requiring a Conditional Use Permit or additional standards that require a Conditional Use Permit in Chapter 32.XX – Use Regulations.

(2) All land uses and development activities expressly made subject to a Conditional Use Permit under this Code.

(3) All uses operating between the hours of 11:00 PM and 6:00 AM shall require a Conditional Use Permit unless they meet one of the following exemptions:

a. Uses located in Industrial zoning districts related to manufacturing, processing, storage, distribution, or warehousing located more than 1,000 feet from any residential use;

b. Uses such as radio stations and alarm monitoring companies that must operate 24 hours per day;

c. Stocking and inventory activities that occur inside retail uses;

d. Childcare conducted inside during these hours; and

e. All uses in the Public Facility or Open Space zoning districts or within other City owned facilities.

(4) Any facility that includes the production, use, or storage of hazardous substances and hazardous waste as defined in NRS Section 459.429 or the production, use, storage, or handling of explosives as defined in NRS Section 278.147 or a highly hazardous substance as defined by NRS Section 459.3816.

(c) Exemptions.

No Conditional Use Permit shall be required for:

(1) Accessory structures

(2) A structural addition to nonresidential facilities that would require a Conditional Use Permit are exempt if the following conditions are met:

a. The addition does not exceed 20 percent of the size of the original development

b. The addition will not have significant impacts on neighboring properties, the size of the property has not been increased, and the proposed addition will continue to comply with all conditions of the original Conditional Use Permit.

c. The addition does not result in the intensification of the use by increasing the number of required parking spaces, increasing the utility usage resulting in the

need to upgrade the size of a utility line, or adding traffic volume to the surrounding streets.

(d) Application Submittal and Review Procedure.

(1) Application Submittal and Handling.
Conditional Use Permit applications shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.

(2) Staff Review and Action.
The Planning Administrator shall review the application and prepare a staff report and recommendation in accordance with Sec. 32.XX.XXX – Review and Action.

(3) Scheduling and Notice of Public Hearing.
The Conditional Use Permit application shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with Sec. 32.XX.XXX – Scheduling and Notice of Public Hearings.

(4) Review and Decision

a. The Planning Commission shall hold a public hearing within 65 days of application.

b. The Planning Commission shall approve, approve with conditions, or deny the application in accordance with Sec. 32.XX.XXX – Review and Decision, based on the general approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications, and the specific findings found in this Section.

(5) Appeal.
The decision of the Planning Commission may be appealed to the City Council in accordance with Sec. 32.XX.XXX – Appeal.

(6) Post-Decision Actions and Limitations.
All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply, with the following modifications:

a. No Building Permit without Approval.

1. The Conditional Use Permit, as approved by the Planning Commission, shall accompany any plans submitted for building permit approval, and all development of the property shall be in accordance with the approved plan.

2. No building permit shall be issued until the Conditional Use Permit application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted "at risk" with no refunds due if the Conditional Use Permit is not finally approved.

b. Time Limitations.

1. Conditional Use Permits that accompany Tentative Maps shall be valid as long as the Tentative Map is valid.

2. The owner or developer shall apply for a building permit for the entire project (or the first phase of the project) within 18 months of the date of approval of the Conditional Use Permit application and maintain the validity of that permit, or the Conditional Use Permit shall be null and void unless a different time limitation was established at the time of final approval or the project falls under Sec. 32.XX.XXX – (section that says they get longer if working with other agencies). If the project is

phased, subsequent phases shall receive a building permit within the following 18 months.

c. Extension by the Planning Commission.

1. The Planning Commission may extend the time limit by an additional 12 months if an application is received by the Planning Department at any point prior to the expiration of the original expiration date.
2. In reviewing an extension request, the Planning Commission shall consider the continued appropriateness of the project in the approved location and may add conditions to ensure that the project does not adversely impact other properties and to protect the public interest.
3. No more than one (1) time extension shall be approved for any project or project phase.

(e) Findings.

In addition to meeting the criteria in Sec 32.XX.XXX – Findings Applicable to all Applications, the following findings shall be made prior to granting a Conditional Use Permit:

(1) The proposed location of the use is in accordance with the purpose of this Code and the purpose of the zoning district in which the site is located;
(2) The proposed land use and project design is compatible with surrounding development;
(3) The proposed land use and project design is consistent with applicable development standards;
(4) Public services and facilities are available to serve the project, or will be provided with development;
(5) The characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of uses permitted in the surrounding area; and
(6) The granting of the Conditional Use Permit will not be materially detrimental to the public health, safety, or welfare to people or property due to noise, smoke, odor, dust, vibration, or light.

(f) Amendments/Modifications

(1) Amendments or Modifications to an approved Conditional Use Permit that do not fall under Sec. 32.03.360(f)(1) – Modification or Amendment of Approval shall be processed following the same procedure found in subsection d of this section, provided:
   a. The Conditional Use Permit has not expired.
   b. The proposed amendment complies with the Comprehensive Master Plan.
(2) An amendment to an approved Conditional Use Permit is also required in the following situations:
   a. One or more of the conditions of approval cannot be met.
   b. There are substantial material changes in the project.
   c. Proposed changes to an approved project will materially impact surrounding properties.
(3) Applications for an amended Conditional Use Permit may result in updated conditions of approval to address changing circumstances since the original approval.
(4) A Conditional Use Permit may be amended one time. If additional amendments are needed, the applicant or property owner shall submit for a new Conditional Use Permit.

Sec. 32.03.530 – Temporary Use Permit (Use).

(a) Purpose

This section provides for the temporary permitted uses of short-term commercial activities that may not meet the normal development or use standards of the applicable zoning district, but

may otherwise be acceptable because of their temporary nature (no more than 30 days in one calendar year).

(b) Applicability

This section establishes a process for the review of proposed temporary uses to ensure basic health, safety, and welfare standards are met and only suitable temporary uses are approved with limitations.

(c) Application Submittal and Review Procedures

(1) Application Submittal and Handling.

Temporary Use Permit applications shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling no less than 7 calendar days prior to the beginning of the temporary use.

(2) Staff Review and Action.

The Planning Administrator shall review the application and shall approve, approve with conditions, or deny the application for review within 7 days of receiving the completed application in accordance with Sec. 32.XX.XXX – Determination of Application Completeness. The decision shall be based on the general criteria in 32.XX.XXX – Findings Applicable to all Applications and the specific findings found in this Section.

(3) Appeal.

The decision of the Planning Administrator may be appealed to the Planning Commission in accordance with Sec. 32.XX.XXX – Appeal.

(4) Post-Decision Actions and Limitations.

All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply.

(d) Findings

In addition to meeting the approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications, the following findings shall be made prior to approving a Temporary Use Permit:

(1) The use does not block any street, traffic lane, or driveway access.

(2) Adequate off-street parking is provided.

(3) If located in a parking lot, the use does not block any drive aisles, pedestrian and/or ADA access ways, or more than one (1) percent of the required parking spaces. If more than one percent of parking spaces are proposed to be used, an alternate parking plan has been submitted.

(4) The temporary use would not be detrimental to the public health, safety, or welfare of people residing or working in the surrounding area.

(5) Provisions have been made with the fire department and/or law enforcement agency to provide adequate public safety services.

(e) Conditions of Approval

In approving a Temporary Use Permit, the Planning Administrator may impose any conditions deemed reasonable and necessary to ensure that the approval will be in compliance with all City, State, and Federal laws. These conditions can include, but are not limited to, the following:

(1) The use shall be allowed for not more than 30 days in the current calendar year.

(2) The use shall be removed and the site restored to its original condition at the end of the term of the Temporary Use Permit. A cash surety shall be submitted to the City of Fernley to ensure that the site restoration and adequate cleanup is complete.

(3) If not available at the site, adequate temporary sanitary conveniences shall be provided.

(4) The applicant and/or property owner shall keep the area clean from litter and debris arising from the operation of the use.

Sec. 32.03.540 – Temporary Use Permit (Special Event).

(a) Purpose

This section provides for the permitting of special events that may not meet the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature (no more than 30 days in one calendar year).

(b) Applicability

This section establishes a process for the review of proposed special events to ensure basic health, safety, and welfare standards are met with or without limitations.

(c) Application Submittal and Review Procedures

(1) Application Submittal and Handling.

Temporary Use Permit applications for special events shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling no less than 30 calendar days prior to the beginning of the temporary use.

(2) Staff Review and Action.

The Planning Administrator shall review the application and shall approve, approve with conditions, or deny the application for review within 30 days of receiving the completed application in accordance with Sec. 32.XX.XXX – Determination of Application Completeness. The decision shall be based on the general criteria in 32.XX.XXX – Findings Applicable to all Applications and the specific findings found in this Section.

(3) Appeal.

The decision of the Planning Administrator may be appealed to the Planning Commission in accordance with Sec. 32.XX.XXX – Appeal.

(4) Post-Decision Actions and Limitations.

All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply.

(d) Findings

In addition to meeting the approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications, the following findings shall be made prior to approving a Temporary Use Permit:

(1) The use does not block any street, traffic lane, or driveway access.

(2) Adequate off-street parking is provided.

(3) If located in a parking lot, the use does not block any drive aisles, pedestrian and/or ADA access ways, or more than one (1) percent of the required parking spaces. If more than one percent of parking spaces are proposed to be used, an alternate parking plan has been submitted.

(4) The temporary use would not be detrimental to the public health, safety, or welfare of people residing or working in the surrounding area.

(5) Provisions have been made with the fire department and/or law enforcement agency to provide adequate public safety services.

(6) Approval from the Public Works Department has been received if the event is held on City-owned property.

(e) Conditions of Approval

In approving a Temporary Use Permit, the Planning Administrator may impose any conditions deemed reasonable and necessary to ensure that the approval will be in compliance with all City, State, and Federal laws. These conditions can include, but are not limited to, the following:

(1) The use shall be allowed for not more than 30 days in the current calendar year.

(2) The use shall be removed and the site restored to its original condition at the end of the term of the Temporary Use Permit. A cash surety shall be submitted to the City of Fernley to ensure that the site restoration and adequate cleanup is complete.

(3) If not available at the site, adequate temporary sanitary conveniences shall be provided. The applicant and/or property owner shall keep the area clean from litter and debris arising from the operation of the use.

(f) Permit Revocation

i. The City of Fernley may immediately revoke or suspend the permit, or deny either the issuance or renewal thereof pursuant to Sec. 32.03.XXX if it is found:

a. The applicant or permittee has violated or failed to meet any of the provisions of this section or conditions of the permit.

b. The operation is detrimental to the surrounding businesses or to the public due to either appearance or conditions of safety.

c. Any required licenses have been suspended, revoked, or canceled.

d. The scheduled hours of operation are not followed.

ii. Upon suspension or revocation, the City shall notify the applicant or permittee in writing of the action that has been taken and the reasons for it.

iii. Violation of an issued permit or of the provisions of this section also may be grounds for a fine (as defined in the Public Works fee schedule) and/or denial of future permit applications.

Article 6 – Modifications and Relief

Sec. 32.03.600 – Major Deviation

(a) Purpose

Major Deviations provide an opportunity for adjustments to quantifiable development standards when modifications enabled by the approval are not impactful to nearby properties or the general public. This is not a general waiver of regulations. Rather, this authorizes targeted deviations from standards when the changes benefit the overall project design.

(b) Applicability

(1) The Planning Commission may approve or deny Major Deviations of more than 10 percent and no more than 50 percent from development standards that can be quantified such as setbacks, lot width, or lot coverage.

(2) The Planning Commission shall not allow Major Deviations from density standards, lot size standards, building height limitations, sign regulations, parking requirements, or the minimum amount of landscaping.

(c) Application Submittal and Review Procedures

(1) Application Submittal and Handling.

Major Deviation applications shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.

(2) Staff Review and Action.

The Planning Administrator shall review the application and prepare a staff report and recommendation in accordance with Sec. 32.XX.XXX – Review and Action.

(3) Scheduling and Notice of Public Hearing.

The Major Deviation application shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with Sec. 32.XX.XXX – Scheduling and Notice of Public Hearings.

(4) Review and Decision

a. The Planning Commission shall hold a public hearing within 65 days of application.

b. The Planning Commission shall approve, approve with conditions, or deny the application in accordance with Sec. 32.XX.XXX – Review and Decision, based on

the general approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications and the specific findings for Major Deviations in this section.

(5) Appeal.
The decision of the Planning Commission may be appealed to the City Council in accordance with Sec. 32.XX.XXX – Appeal.

(6) Post-Decision Actions and Limitations.
All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply, with the following modifications:

a. No Building Permit without Approval.

1. The Major Modification, as approved by the Planning Commission, shall accompany any plans submitted for building permit approval, and all development of the property shall be in accordance with the approved plan.
2. No building permit shall be issued until the Major Modification application and all other associated applications have been approved and any applicable appeal period is exhausted. Any building permitted when an application has been appealed or prior to the end of the appeal period shall be submitted "at risk" with no refunds due if the Major Modification is not finally approved.

b. Extension by the Planning Commission.

1. The Planning Commission may extend the time limit by an additional 12 months if an application is received by the Planning Department at any point prior to the expiration of the original expiration date.
2. In reviewing an extension request, the Planning Commission shall consider the continued appropriateness of the project in the approved location and may add conditions to ensure that the project does not adversely impact other properties and to protect the public interest.
3. No more than one (1) time extension shall be approved for any project or project phase.

(d) Findings.
In addition to meeting the approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications, the following findings shall be made prior to approving a Major Deviation:

(1) Granting the Major Deviation will not significantly impact nearby property;
(2) Project changes enabled by the Major Deviation enhance the overall design of the project, operations of the project, or the public benefits resulting from the project;
(3) Granting of the Major Deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the property is located; and
(4) Granting the Major Deviation will not be materially detrimental to the public health, safety, or welfare.

(e) Precedent
The fact that a building exists or was constructed or expanded in a manner which does not conform with this Code prior to the consideration of a Major Deviation application may not be used as a basis for the granting of a Major Deviation.

Sec. 32.03.610 – Minor Deviation

(a) Purpose.

This section describes the process by which requests for Minor Deviations from strict compliance with the land development standards are reviewed for compliance with this Code and that potential impacts are considered.

(b) Applicability.

The Planning Administrator may approve or deny minor deviations of less than ten percent from development standards that can be quantified in accordance with NRS Section 278.319.

(c) Application Submittal and Review Procedures.

(1) Application Submittal and Handling

Minor Deviation applications shall be initiated by application of the property owner with the written consent of the owner of any real property that would be affected by the deviation and be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.

(2) Staff Review and Decision

The Planning Administrator shall review applications for Minor Deviations and approve or deny the Minor Deviation within 30 days of application submittal. In approving the Minor Deviation, the Planning Administrator may require conditions as outlined in this section.

(3) Appeal

The decision of the Administrator may be appealed in accordance with Sec. 32.XX.XXX – Appeal.

(d) Findings.

In addition to meeting the findings in Sec. 32.XX.XXX – Findings Applicable to all Applications, the following findings shall be made prior to approving a Minor Deviation:

(1) Granting the Minor Deviation will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements in the vicinity; and

(2) The proposed Minor Deviation is consistent with the intent and purpose of this Code.

(e) Precedent

The fact that a building exists or was constructed or expanded in a manner which does not conform with this Code prior to the consideration of a Minor Deviation application may not be used as a basis for the granting of a Minor Deviation.

(f) Conditions.

(1) In approving a Minor Deviation, the Planning Administrator may require conditions under which the lot or parcel may be used, or the building constructed, which, in the Planning Administrator's opinion, will prevent material damage or prejudice to adjacent properties, and provide suitable safeguards to the public health, safety, and general welfare. These conditions may include:

c. Architectural considerations
d. Access provisions
e. Off-street parking
f. Landscaping requirements

(2) All conditions must be satisfied, and violation of the conditions shall result in revocation of the permission(s) granted by the Minor Deviation. Further use shall constitute a violation of this Chapter and shall be punishable as provided in XXX.XX.XX – X.

Sec. 32.03.630 – Variance

(a) Purpose.

This section describes the process by which requests for exception to compliance with the land development standards are reviewed for compliance with this Code and that potential impacts are considered.

(b) Applicability.

Variances are exceptions to compliance with the land development standards found in this Code. Variances are intended to alleviate exceptional practical difficulties or undue hardship arising from the strict application of the provisions of this Title to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

i. Variances cannot be used to allow for uses not otherwise allowed in the zoning district assigned to the property.

ii. Variances cannot be used for new construction on a vacant lot or other self-created hardships.

(c) Application Submittal and Review Procedures.

(1) Application Submittal and Handling

Variance applications shall be initiated by the property owner and be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.

(2) Staff Review and Action

The Planning Administrator shall review Variances and provide a recommendation to the Planning Commission.

(3) Scheduling and Notice of Public Hearing

The application for Variance shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with Sec. 32.XX.XXX – Scheduling and Notice of Public Hearings.

(4) Review and Decision

The Planning Commission shall hold a public hearing within 65 days of the date of application and shall either approve or deny the application in accordance with Sec. 32.XX.XXX – Review and Decision.

(5) Appeal

The decision of the Planning Commission may be appealed in accordance with Sec. 32.XX.XXX – Appeal.

(6) Modifications and Limitations

All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations, shall apply.

a. Time Limitations and Extensions

1. Variances that accompany Tentative Maps shall be valid as long as the Tentative Map is valid.

2. The owner or developer shall apply for a building permit for the entire project within 18 months of the date of approval of the Variance application and maintain the validity of that permit or the Variance approval shall be null and void unless a different time limitation was established at the time of final approval based on the characteristics and complexity of the project.

b. Extension by the Planning Commission

1. The Planning Commission may extend the time limit by 12 additional months if the application is received by the Planning Department any time prior to the expiration of the original approval.

2. In reviewing any such extension request, the Planning Commission shall consider the continued appropriateness of the project in the approved location and may add conditions to ensure that the project does not adversely impact other properties and to protect the public interest.
3. No more than one time extension shall be approved for any project or project phase.

(d) Findings

In addition to meeting the approval criteria in Sec. 32.XX.XXX – Findings Applicable to all Applications, all of the following findings shall be made prior to granting a Variance:

(1) The property is characterized by an extraordinary or exceptional situation or condition, such as exceptional narrowness, shallowness, or shape, or it has exceptional topographic conditions at the time of enactment of the regulations;

(2) The strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property;

(3) Granting of the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements in the vicinity; and

(4) The proposed Variance is consistent with the intent and purpose of this Code per Chapter 32.XX.XXX – Purpose.

(e) Precedent

The fact that a building exists or was constructed or expanded in a manner which does not conform with this Code prior to the consideration of a Variance application may not be used as a basis for the granting of a Variance.

(f) Conditions

(1) In approving a Variance the decision-making body may require conditions under which the lot or parcel may be used, or the building constructed, which, in the decision-making body's opinion, will prevent material damage or prejudice to adjacent properties, and provide suitable safeguards to the public health, safety, and general welfare. These conditions may include:

a. Architectural considerations
b. Access provisions
c. Off-street parking
d. Landscaping requirements

(2) All conditions must be satisfied and violation of the conditions shall result in revocation of the permission granted by the Variance. Further use shall constitute a violation of this Chapter and shall be enforceable under Chapter XX.XX.XXX – X.

Sec. 32.03.640 – Waiver

(a) Purpose.

The purpose of the waiver is to provide relief with respect to specific areas of the city that have significant restraints that hinder development or redevelopment.

(b) Applicability.

(1) A waiver allows the full waiver of certain development standards where the strict adherence to the standards may be considered excessive due to the site location and/or nature of the proposed use.

(2) A waiver can be used only for the development standards in the areas of the City identified in Table 32.03.090-1 below.

Table 32.03.090-1 – Waivers Available

Area	Waivers Permitted
Downtown, specifically the area bordered by the railroad tracks to the north, Cedar Street to the south, Dallas Lane and Miller Lane to the west, and Hardie Lane to the east.	• Curb, gutter, and/or sidewalk • Parking (number of spaces) • Landscaping
US95A/Speedway Road industrial park	• Curb, gutter, and/or sidewalk • Landscaping
Industrial areas along Lyon Drive, Salvadore Drive, Resource Drive, and Industrial Drive	• Landscaping

(c) Initiation/Application.

(1) The applicant files an application for a waiver with the administrator. The waiver request may be combined with the underlying application for which the waiver is requested.

(2) The submittal package for a waiver must include the following items:

a. Application

b. Fee

c. All items required in the submittal checklist found in Appendix A of this Chapter.

d. Written explanation of why the waiver is necessary and how it complies with the items listed in subsection 5 (below).

e. Any other plans, renderings, reports, or other information necessary to support the waiver request.

(d) Completeness

(1) Applications are subject to Section 32.02.030 of this Chapter.

(e) Notice.

(1) No public hearing is required for the waiver itself.

(2) If a waiver is combined with another application, the notice requirements for that application apply.

(f) Approval Criteria/Findings. To approve of a waiver, the Planning Commission or City Council must make all of the following findings:

(1) There is evidence of circumstances beyond the reasonable control of the property owner such as:

a. Unusual size, shape, or topography of the site; and/or

b. Existing conditions on the site that make complying with the code impractical; and/or

c. The site is somehow legally nonconforming.

(2) The waiver does not impair the purpose of the zoning district.

(3) The waiver does not impact any fire, building, or health codes.

(4) The waiver is consistent with the Master Plan.

(5) The waiver is necessary to preserve a substantial property right enjoyed by surrounding properties.

(g) Decision.

(1) Planning Commission shall approve all waivers except those combined with applications for which the City Council is the decision-making body.
   a. Planning Commission decisions may be appealed to the City Council per Section 32.03.090(f) of this code.
(2) City Council shall approve waivers combined with Tentative Subdivision Maps.
   a. City Council decisions may be appealed per Section 32.03.090(f)(8).
(3) City Staff and/or the approving body may include conditions and/or mitigation measures to address any potential impacts of the waiver.

(h) Precedents.
The fact that a waiver for the same or similar use has been granted previously shall not establish a precedent. Each waiver is considered on a case-by-case basis.

(i) Burden of Proof.
The applicant bears the burden of proof to establish that a waiver is warranted.

Sec. 32.03.650 – Reasonable Accommodation

(a) Purpose
The purpose of this section is to provide individuals with disabilities reasonable accommodation in its rules, policies, practices, and procedures to ensure the equal access to housing and facilitate the development of housing for individuals with disabilities in compliance with the Federal Fair Housing Act, the Rehabilitation Act, and the Americans with Disabilities Act (herein the "Federal Acts"). This section provides a procedure for making requests for reasonable accommodations in land use and zoning policies, practices, and procedures of the City to comply fully with the intent and purpose of the Federal Acts.

(b) Applicability
(1) A request for a reasonable accommodation to any provision of this Code or any related policy or practice may be made by any person with a disability, his or her representative (e.g. family member, care provider, etc.), or a provider of housing for persons with disabilities when the application of such provision, policy, or practice may act as a barrier to affording such person equal opportunity to use and enjoy a dwelling.
(2) A person with a disability is a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment. While a person recovering from substance abuse is considered a person with a disability, a person who is currently engaging in the current illegal use of controlled substances is not.
(3) This section is intended to apply to those persons who are defined as disabled under the Federal Acts.
(4) A request for a reasonable accommodation may include a modification or exception to the provisions of this Code or any policies, rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to use and enjoy a dwelling of his or her choice.

(c) Application Submittal and Review Procedures
(1) Application Submittal and Handling
   (a) Reasonable Accommodation applications shall be submitted, accepted, and revised in accordance with Sec. 32.XX.XXX – Application Submittal and Handling.
   (b) If any information provided by the applicant includes medical information or records of the applicant, including records indicating medical condition,

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diagnosis, or medical history of the applicant, the City (to the extent permitted by law) shall treat such information as confidential information of the City.

(2) Staff Review and Action

(a) The Planning Administrator (with the aid of the City Attorney) shall review the application and shall approve, approve with conditions, or deny the application for review within 30 days of receiving the completed application in accordance with Sec. 32.XX.XXX – Determination of Application Completeness.

(b) If necessary to reach a determination on the request for a reasonable accommodation, the Planning Administrator may request further information from the applicant consistent with the Federal Acts, specifying in detail the information that is required. In the event that a request for further information is made, the 30-day period to issue a decision is paused until the applicant responds to the request.

(c) If the findings listed below can not be met, the City may propose an alternative accommodation that would provide an equal benefit.

(3) Appeal

The decision of the Planning Administrator may be appealed to the Planning Commission in accordance with Sec. 32.XX.XXX – Appeal.

(4) Post-Decision Actions and Limitations.

All common procedures in Sec. 32.XX.XXX – Post-Decision Actions and Limitations shall apply.

(d) Findings

The decision to approve or deny a request for a reasonable accommodation will be consistent with the Federal Acts and shall be based on consideration of all of the following findings:

(1) The housing subject to the request will be used by one or more individuals with a disability as defined under the Federal Acts.

(2) The request for a reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Federal Acts.

(3) The requested reasonable accommodation would not impose an undue financial or administrative burden on the City.

(4) The requested accommodation would not fundamentally alter the nature of a City program or law, including but not limited to land use and zoning.

(e) Conditions of Approval

The granting of a reasonable accommodation made in compliance with this section may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances, such as in the event that the disabled person vacates the subject property.

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