



City of Las Vegas

**AGENDA SUMMARY PAGE PLANNING & DEVELOPMENT
CITY COUNCIL MEETING OF: APRIL 16, 2008**

DEPARTMENT: PLANNING & DEVELOPMENT
DIRECTOR: M. MARGO WHEELER

Consent Discussion

SUBJECT
REZONING

ZON-25758 PUBLIC HEARING - APPLICANT: SOUTHWEST DESERT EQUITIES, LLC -
OWNER: KRAVITZ COMPANY, LLC ET AL. - Request for rezoning FROM: U
(UNDEVELOPED) [PUD (PLANNED COMMUNITY DEVELOPMENT)] TO: PD (PLANNED
DEVELOPMENT) on 23.62 acres at the southeast corner of Hualapai Way and Deer Springs Way
(APNs 135-09-301-004 through 005 and 013), Ward 6 (Ross). Staff recommends DENIAL. The
Planning Commission (6-1 vote) recommends APPROVAL.

PROTESTS RECEIVED BEFORE:

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

27

Planning Commission Mtg.

1

City Council Meeting

42

City Council Meeting

0

RECOMMENDATION:

Staff recommends DENIAL. The Planning Commission (6-1 vote) recommends APPROVAL.

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Conditions (Not Applicable) and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Information Letter from Pinnacle Nevada
7. Submitted after Final Agenda Protest Petition and Protest Letters for Items 101-102 (including repetitive signatures)
8. Submitted at Meeting Comparison Chart, Map, Transportation Trail, Streets and Highways Plan, Elevations and Landscape Plans by Attorney Mark Fiorentino, Information Packet by Richard Lemmon, Written Comments by Brigitte Solvie, Protest Petition by Karin Lemmon, Financial Contribution List by Lisa Mayo-DeRiso and Letter from Frank Wyatt by Councilman Ross for Items 101-103
9. Submitted after Meeting Protest letter by John J. Graves, Jr., Esq.
10. Backup Referenced from the 03-13-08 Planning Commission Meeting Item 18

Motion made by STEVEN D. ROSS to Approve

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 1; Excused: 0

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RICKI Y. BARLOW, LARRY BROWN, OSCAR B. GOODMAN, GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-LOIS TARKANIAN); (Excused-None)

NOTE: Subsequent to the motion, COUNCILMAN BARLOW asked that his vote reflect in the affirmative on Item 101.

Minutes:

MAYOR GOODMAN declared the Public Hearing open for Items 101-103.

ATTORNEY MARK FIORENTINO appeared on behalf of the applicant. He clarified that the applicants are affiliates of Focus Properties. He gave a history of the site and the current construction in the area, which is a multi-family residential project. There is an existing Centennial High School immediately adjacent to the site is a reserve; to the south of the site are a Nevada power plant and a regional park facility with La Crosse fields. He showed the Master Plan of Streets and Highways in relation to their site. Deer Springs Way will be a collector to carry major traffic east-west between Durango Drive and Hualapai Way. There is a designation of arterial which will also carry major traffic. Hualapai is an existing connector and a future interchange at Morse Drive. The site was designated as a residential community district, but the area was changed dramatically. It will not serve well as a collector and a major arterial for rural densities.

ATTORNEY FIORENTINO noted that much work has been done in finding a compatible project, and there have been many neighborhood meetings. He highlighted some changes from the original site plan to the new one. The grocery store has been turned around to eliminate the public streets. There are greater setbacks, less signage, abundant landscaping and open space and the neon lighting has been eliminated. The most significant change was along Deer Springs Way, as there are no immediate residents. There is vacant property along the border of the subject property. North of Deer Springs Way and east of Hualapai Way are much larger lots, ranging from half to one acre. Further east and west, the density lessens. On the north side of the 80-foot right-of-way, there is a multi-use trail. There will be a decorative block wall, and the driveway grades have been lowered to lessen the view of the majority of vehicles. He submitted documentation and gave copies to Council.

GINA VENGLASS, Public Works, read the amendment to Condition 16 on Item 102.

ATTORNEY FIORENTINO and MARGO WHEELER, Director of Planning and Development, noted additional condition changes. ATTORNEY FIORENTINO concurred with the amendments.

TOM MCGOWAN, Las Vegas resident, asked staff's reason for denial. MS. WHEELER replied that the request is a zone change, but staff feels the current zoning is appropriate. MR. MCGOWAN added that the term "utopian" means non-existent and recommended approving the applications.

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RICHARD LEMMON; 9645 Haley Avenue; DENISE HALVORSON; 9840 Dorrell Lane; BRIGITTE SOLVIE, 7030 North Conquistador Street; KARIN LEMMON, 9645 Haley Avenue; TERESA FISHER, 7060 Eula Street, all expressed opposition to the project, as the residents did not have the opportunity for input during the planning stages. In addition, there is a small commercial development at Hualapai Way with a 330-foot buffer, and most of it will be placed with townhouses and, in essence, no buffer will exist. The area has custom homes with landscaped yards, low lighting and minimal traffic. There is concern that the development will bring unwelcomed elements, such as noise, traffic and congestion. The proposed development would not be compatible with the entire community and will destroy their lifestyle.

MS. SOLVIE noted square footages with other upcoming developments that are available or will be available and are within driving distances of 1.5 to 2.5 miles from most commercial and general retail. She cited a New York Times article regarding woes of economic consumer spending and the number of projected retail stores closing due to heavy debt. She pointed out that Focus Group recently defaulted on their loan and has been negotiating for lower interest rates. She questioned why Council should continue to support this developer and allow them to extend build outs on their developments. She requested Council to abide by the current land use plan, Centennial, Interlocal and the Master Plan and submit documentation for the record.

MS. LEMMON submitted documentation and noted numerous businesses along the Durango Drive corridor that are in support of the proposal due to the type of competition it would bring. She reminded Council that the Las Vegas Metropolitan Police Department believed the project would increase crime and would negatively impact the availability time of the Northwest Area Command. MS. FISHER suggested the developer address the property directly north of the subject site, which are large custom lots. She agreed that there are alternate locations suitable for this project and did not want to see such a development negatively impact the children in the neighborhood. For the Mayor, she recommended that residents have not had any noise issues with the emergency vehicles if other services are desired, residents do not mind driving to such facilities.

ROBERT NEWHARD, 3609 Alliance Street, is not an immediate resident but a small developer in the Lone Mountain Centennial Hills area. He believed projects of this type are not compatible for this type of area and asked for Council's denial.

ANTHONY HODGES was neutral and noted staff and Planning's differences on their recommendations.

MARC SIMON, 9780 Wittig Avenue, lives by the trail, owns livestock and utilizes the trail. He believed the proposal would create a problem for livestock owners and asked Council to view the site prior to approving or denying.

LISA MAYO De RISO, 8322 Jeeves Circle, lives in the northwest area. She stated the residents called her for assistance as they felt they were in a lose situation, which was the same information related to her at a homeowners meeting. MS. SOLVIE informed the Mayor that one

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of COUNCILMAN ROSS staff members told them the project would be a shoe in and is taken care of. MS. De RISO commented that Council should commend the residents in putting together their documentation and voicing their concerns, as she believed they made a compelling case, as well as staffs compelling argument for denial. It was her opinion that Focus Group is a big developer, who has gotten their way in the subject area for a long time. She thought it was only fair to note the campaign contributions that Focus has given to every board member. In addition, she believed there was no access to Council for the residents and transparency should always exist. She submitted the information pertaining to the campaign contributions.

MAYOR GOODMAN respectfully disagreed with MS. De RISO. He justified the Council's availability and pointed out that his office was not notified. COUNCILMAN REESE added that no one contacted his office as well. The Mayor added that not everyone will be satisfied and there is no other group more available than the current Council. MS. De RISO responded that, in her opinion, if approved, these applications do not meet criteria and reiterated the campaign contributions. COUNCILMAN BARLOW explained this Council is very transparent, as it exists by law and records of campaign contributions is open to the public but there are no bribes. MAYOR GOODMAN concurred, as access to these records is the voter's rights.

COUNCILMAN WOLFSON understood MS. De RISO's comments. As a Councilman, he has committed to making decisions on items once the issues have been heard at the meeting and a motion has been taken. He has not spoken with COUNCILMAN ROSS or ATTORNEY FIORENTINO on this issue and he allows for anyone to meet with him, including MS. De RISO. Items are not a done deal as he is an independent thinker and doer. The information given to residents, referred to by MS. De RISO, could have been misspoken or untrue. The Councilman understood the residents' opposition to the project but not necessarily to development. Aside from money, he would like to see a comparative study relative to the net financial effects on the developer between two types of projects, commercial versus a half-acre single family project. MS. WHEELER noted that financial reports are not within staff's arena nor is it part of a land use decision. The Councilman suggested to MS. WHEELER putting together a group of developers or economists and doing an informal comparative study.

COUNCILMAN BROWN asked for clarification on the appeared conflict as to what development will be taking place at the property north of MS. FISHERS residence, as she believed it was supposed to be a minimum of half-acre lots. COUNCILMAN WOLFSON clarified for MS. FISHER his request pertained to the developers' financial motivations as it pertains to commercial versus residential. MS. FISHER explained the larger homes built on the smallest lots is where the profit lies and she believes that is the applicants intentions. For the residents, the issue lies with their lifestyle and not money.

MS. SOLVIE noted that the residents understood the 330-foot buffer on the northwest corner of the subject property line, and upon COUNCILMAN BROWN'S query, she informed him that the remaining property facing Deer Springs Road directly abuts half-acre lots.

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ATTORNEY FIORENTINO understood the residents' concerns but pointed out the circumstances with the traffic patterns changing, which will become more dramatic, relative to Hualapai Way and Deer Springs Way. Relative to COUNCILMAN WOLFSON'S query and suggestion, he affirmed that it is a matter of timing given market trends, and the issue is what is appropriate for this existing site. He added that the vast number of residents residing on larger lots would not live between a water reservoir, a beltway and an interchange. In addition, should eight to 10 units be built per acre as a single family development, it would have been worth three times the amount they are due to the difference in the market and waiting lists across the valley during that time. He emphasized that he informed the residents honestly and believed that commercial is the best overall land use if buffered properly, whether or not profit is most beneficial.

Regarding the residents' submittals, ATTORNEY FIORENTINO commented on the documentation relative to the zoning category and the allowed uses, as this information was not inclusive and inaccurate. They misunderstood that Commissioner Steinman, and not he, drove a resident to the subject site prior to their voting and viewed the area. In addition, they have not ignored the residents' concerns. Should Council support this use, it is the most appropriate way to protect the residents. The site plan is detailed and conforms to the existing Master Plan. He explained that the Providence development will consist of approximately 7,000 homes; Kyle Canyon development will consist of approximately 12,000 homes, so residents will need these services and be able to have access to the freeway rather than going through the neighborhood on Elkhorn Drive.

COUNCILWOMAN TARKAN noted there are other communities with larger lots, such as Scotch 80s and Rancho Bel Air, and they are near an interchange but have been successful. She believed there is a need for larger lots within congested areas.

COUNCILMAN BROWN noted his friendship with MS De RISO but respectfully disagreed with the previous comment regarding contributions being a means to sway Council or his voting relative to Kyle Council. He believed the issue deals with the buffer areas, such as along the 215 Beltway. There are existing beautiful homes along the 215 Beltway, and there are commercial properties abutting this Interchange. These are real difficult decisions, but he did not think a buffer property along the 215 would not be a bad thing, especially if done properly and managed well; such development could be an asset. Change is happening, and these projects will have residents more involved but pointed out that the history and the good done is not lost with all of the Master Planned developments. Comparing present to the past 10 years, the residents in the northwest area have been protected more than others elsewhere. He also pointed out a percentage of commercial development in Town Center has developed significantly lower, partly due to the crazy market changes; the change was from hard commercial to single family. In his opinion, if approved, the project number would still be lower due to the market transition. He concluded in stating it is human nature to be concerned for crime and other negative elements but emphasized if done property, if five to 15 years, this proposed development will do much better than the previous prediction. He appreciated the report and emails and extended his availability to anyone, as he is familiar with the area and many of the beautiful homes.

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COUNCILMAN ROSS rebutted his staff works for Ward 6 residents and they would never insinuate a project is a done deal. He has been consistent as a Councilman, in that developers know that with any proposed development, the applicants must meet with the residents. For the residents most impacted by this proposal, he has gone the extra mile in addressing those concerns with COMMISSIONER CHIP MAXFIELD. He will always believe the residents need to be heard. Regarding his accessibility, MR. LEMMON has been the only resident that met with him. He recognized the developers efforts, as they have the courage to develop. The Councilman thanked ATTORNEY FIORENTINO for numerous meetings with residents, all comments and their efforts. This area will always be challenging, but he will continue to protect the rural.

The Councilman agreed that anything could be built along Deer Springs Way/Hualapai Way. He is more concerned with the Providence development than this proposal relative to traffic patterns and roadways. With various opinions, it is challenging to meet everyone's goals and expectations. Some that reside closer desired more specific stores. He hopes with this vote, it will protect residents. He confirmed with ATTORNEY FIORENTINO that a meeting was held with representatives of future adjacent developments to reiterate the use that is not preferred. MS. WHEELER confirmed that the uses are not on the agenda at this meeting. He respectfully disagreed with MS. WHEELER and commented to state that the uses desired are allowed on the adjacent two pads; something needs to be done now, though Council does not desire such use.

COUNCILMAN ROSS pointed out that the zone change conforms to the Code: June 6, 2007 the amendment was from residential PC. As a result, there must be significant change for a denial in this request. This Council's ability to deny the change is significantly hampered by the law; location is appropriate for commercial uses and is located at an intersection of 215 and future 100-ft right-of-way. To protect the residents quality of life and ensure an upscale neighborhood center, the developer has agreed to prohibit uses, such as taverns, tattoo shops, check cashing and vehicle sales. In addition, the sign will be low level, low voltage down light lighting to remove any nuisance lighting. The applicant has included 27 trees that are not required by Town Center standards, which creates a buffering wall. He referenced a shopping center in COUNCILMAN WOLFSON'S ward with the same appearance and is phenomenal and non visible.

COUNCILMAN ROSS noted that residents who contacted him live at least 2,200 feet away from the subject site; residents north of Deer Springs Way will not be able to visibly see the development and have no access; this project and others in the northwest have been barraged with fear tactics and misleading information by sending out blanket emails yet have no accurate information about projects which is irresponsible on their part; residents do have a voice and those nearest have been heard and concerns have been mostly mitigated; 14 of the 80 contacts his office received live near the subject site; and MS. De RISOS representation has created a strong misnomer regarding how many emails sent. He is committed to working with any number of residents that are concerned with the project.

MS. WHEELER added the site plan shows A, B, C and D as drive-through facilities. Should Council want to place a limitation, the Council can require the applicant to come back later or just limit to non-food service. ATTORNEY FIORENTINO confirmed with COUNCILMAN

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ROSS that the applicant will accept the Council's wisdom. He suggested that MR. WYATT, Pinnacle Homes, is most concerned with Pads C and D, and if necessary, the applicant can appear before Council for approval. MS. WHEELER added that special use permits can be requested if the use is desired; a design would be more so a site development plan review. ATTORNEY FIORENTINO agreed that a use permit would be more desired. MS. WHEELER read the suggested condition relating to the two pads, C and D, which cannot be drive-through facilities or facilities used for non-cooking foods.

GINA VENGLAS, Public Works, noted the amendment to Condition 16 on Item 102. MS. WHEELER also read the additional conditions for Item 102. ATTORNEY FIORENTINO submitted exhibits from his presentation and concurred with all conditions and amendments.

MAYOR GOODMAN declared the Public Hearing closed for Items 101-103.

