



*City of Las Vegas*

Agenda Item No.: 14.

**AGENDA SUMMARY PAGE PLANNING & DEVELOPMENT  
PLANNING COMMISSION MEETING OF: AUGUST 28, 2008**

DEPARTMENT: PLANNING & DEVELOPMENT  
DIRECTOR: M. MARGO WHEELER

Consent  Discussion

**SUBJECT:**  
BEYANNE GPA-28283 - GENERAL PLAN AMENDMENT - PUBLIC HEARING -  
APPLICANT: OWNER: DARREN JACKSON, ET AL - Request to Amend the Southeast  
Sector of the General Plan FROM: D1 (DESERT RURAL DENSITY RESIDENTIAL) AND L  
(LOW DENSITY RESIDENTIAL) TO: SC (SERVICE COMMERCIAL) on 1.45 acres adjacent  
to the west side of L. King Boulevard, approximately 1,450 feet south of Charleston  
Boulevard (APNs 102-02-201-001 and 002), Ward 7 (Tarkanian)

C.C.: 10/01/2008

**PROTESTS RECEIVED BEFORE:**

**APPROVALS RECEIVED BEFORE:**

Planning Commission Mtg.	8	Planning Commission Mtg.	1
City Council Meeting	0	City Council Meeting	0

**RECOMMENDATION:**

**DENIAL**

**BACKUP DOCUMENTATION:**

1. Location and Aerial Maps
2. Conditions (Not Applicable) and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Protest/Support Postcards
7. Submitted at Meeting Conditions of Approval and Deed Restriction by Kummer Kaempfer Bonner Renshaw & Ferrario and Protest Letter for Items 14-17

Motion made by DAVID STEINMAN to Approve

Passed For: 5; Against: 1; Abstain: 1; Did Not Vote: 0; Excused: 0  
DAVID STEINMAN, RICHARD TRUESDELL, BYRON GOYNES, GLENN TROWBRIDGE,  
VICKI QUINN; (Against-STEVEN EVANS); (Abstain-SAM DUNNAM); (Did Not Vote-  
None); (Excused-None)

NOTE: COMMISSIONER DUNNAM disclosed that he is the engineer of record for this project  
and would abstain on Items 14-17.

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Minutes:

CHAIR GOYNES declared the Public Hearing open for Items 14-17.

DOUG RANKIN, Planning and Development Department, recommended denial as the project is incompatible with surrounding land uses. He added that the Scotch 80's Home Owners Association (HOA) had submitted a protest letter after the backup was printed.

MARGO WHEELER, Director of the Planning and Development Department, read several conditions proposed by the applicant which were acceptable to staff.

CHRIS KAEMPFER appeared on behalf of the applicants. He noted that the neighbors had expressed their preference for developing the property as low-density residential housing and were clearly opposed to multi-family housing on the site. He suggested that low-density housing on the site would be inappropriate, pointing out the property is adjacent to a freeway on-ramp, a fire station, and roads with high traffic volumes.

MR. KAEMPFER listed the many benefits the neighborhood would enjoy if the project were approved. He stated that the project would have limited hours of operation, would not operate on the weekends, and would have no retail gaming or smoking. He added that the project would be located away from residential homes, surrounded by an eight-foot decorative wall with a landscape buffer and guard. He read and submitted to the commission suggested additional conditions intended to protect and reassure the neighborhood.

MR. KAEMPFER submitted to the commission a proposed deed restriction limiting the uses permitted on the property and acknowledged that the City could not enforce the deed restriction. He suggested making the Scotch 80's HOA a party to the deed restriction, stating that doing so would make the deed restriction a contract and would increase its enforceability.

DEPUTY CITY ATTORNEY JIM LEWIS noted the City Attorney's Office has consistently recommended against zoning by deed restriction. He stated that a deed restriction was a document recorded by the owner of the property and suggested that the owner could remove it at any time.

MS. WHEELER informed the Commissioners that the City is not a party to private sales of property and does not monitor or control those sales.

STEPHEN GROGAN, President of Scotch 80's HOA, 2121 Silver Avenue, appeared in opposition and argued that single-family homes could be successfully developed on the property. He stated approval of this project would begin an encroachment battle between the neighborhood and commercial development and would lead to the deterioration of the neighborhood. He pointed out that the applicants promise to restrict the uses on the property was not enforceable and that the applicant had not obtained the approval of the adjacent neighbors. He concluded by noting that the City's core was changing and residents would soon be seeking homes closer to the City's center.

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TODD FARLOW, 240 North 19th Street, concurred with MR. GROGAN'S comments and expressed his opposition.

COMMISSIONER QUINN thanked MS. WHEELER for holding these items as she was excused from the previous Planning Commission meeting. She stated that the City's older neighborhoods are its heartbeat and empathized with the neighbors' concerns. She noted that she had visited the site five times, once with MR. KAEMPFER and once with some neighbors. She also wished a home had been constructed on the vacant lot when the area was originally developed, but acknowledged that no one would buy the property and build a home there. COMMISSIONER QUINN explained that her concerns resulted in the deed restriction suggested by the applicant and noted the applicant had modified the site plan and suggested several additional conditions to address her concerns. She stated the proposal would be appropriate if the applicants honored their promises.

MR. KAEMPFER pointed out that the properties adjacent to the site are either rentals or are in foreclosure and argued those properties would benefit from the development of this project.

MR. KAEMPFER asked the applicants to introduce themselves to the Commissioners and explain their plans for the site. DARRELL JACKSON, architect, and general contractor, stated that he wanted to develop the lot and improve the neighborhood. DREW LEVY expressed his respect for the neighborhood and stated his applicants planned to locate their offices on the site. He assured the Commissioner that there were no plans to resell the property.

Regarding COMMISSIONER QUINN'S question regarding the placement of the fire station adjacent to the subject site, MR. KAEMPFER stated that the City had acquired the property and had built the fire station after numerous public meetings. He noted those activities had taken place in 1999, approximately.

MR. KAEMPFER informed COMMISSIONER QUINN that the subject property could potentially access to the residential area, but clarified that the project when completed would not have any access. MR. KAEMPFER acknowledged that a home could be placed on the portion of the property adjacent to the residential area, but suggested it would be impossible to sell and would leave the remainder of the parcel unusable.

COMMISSIONER TROWBRIDGE suggested that single-family development would not happen on this property due to its proximity to the fire station and Martin Luther King Boulevard. He observed that the property seemed appropriate for multi-family development, but noted the neighbors' opposition to that suggestion. He stated that the applicants had volunteered for numerous self-imposed hardships and complimented the proposed conditions. He concluded by suggesting that cell towers be included as a prohibited use and expressing his support.

COMMISSIONER TRUESDELL acknowledged that the parcel was problematic and empathized with the applicants and neighborhood's concerns. He noted that he had voted against the fire station when it was proposed, but pointed out these parcels were not part of the original Scotch

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80's HOA. He stated that vacant land is a detriment to the community and suggested restricting access to the residential homes, restricting the hours of operation and repositioning the trash enclosures would help this project. He admitted that deed restrictions are a bad way to control property and suggested placing a review period on the project.

DEPUTY CITY ATTORNEY LEWIS explained that deed restrictions only work when a property is transferred from one property owner to another and suggested that the proposed deed restriction may not be enforceable since there was no transfer of property taking place. He stated that the Commissioners were being asked to decide whether the property is or is not appropriate for the C-1 (Limited Commercial) zoning.

COMMISSIONER TROESDELL commented that the City needs a method for addressing in-fill pieces that is sensitive to neighbors and still allows development for the highest and best use. He pointed out the existing office development has been a benefit to the area and suggested the Scotch 80's HOA work with staff for design standards to limit uses in the area and protect the neighborhood.

COMMISSIONER STEINMAN agreed that the parcel could not be developed as single family residential or multi-family and supported the C-1 zoning and deed restriction. He expressed his confidence that the Scotch 80's HOA would be adequately protected by the applicants' proposed deed restriction and added condition.

MS. WHEELER clarified that if this project were approved, any approved C-1 use would be approved administratively by staff. She explained that the deed restriction would not prevent any unwanted uses from taking place on the site as any permitted uses would be allowed to move in and occur.

MR. KAEMPFER expressed the applicants willingness to ensure the deed restriction is properly recorded and enforceable and suggested several different methods for placing restrictions on the permitted uses in an effort to reassure the neighbors and Commissioners.

In response to MR. KAEMPFER'S suggestion that conditions be placed on the Zoning application to limit the permitted uses, DEPUTY CITY ATTORNEY LEWIS noted that the site plan could contain a condition requiring a design review with any changes in use and pointed out that requirement already exists in the Code. He clarified that the Commissioners do not have ability to deny uses through the site plan review process.

MS. WHEELER assisted COMMISSIONER STEINMAN with the wording of the added conditions during the crafting of the motions.

CHAIR GOYNES declared the Public Hearing closed for Items 14-17.