

# GROWTH AND PROSPERITY IN CLARK COUNTY: HOW ZONE CHANGES MAKE IT HAPPEN

BY ELISABETH DELK, ESQ.



A common misconception is that a property's existing zoning cannot be changed. This article reviews not only the process of requesting a zone change within Clark County, but also discusses the need for these zone changes to help accommodate the high influx of new residents moving to Las Vegas.

## Zoning at a Glance

Clark County is comprised of 5.2 million acres of land; 2.9 million of those acres, or approximately 56 percent, are administered by the U.S. Bureau of Land Management (BLM). On occasion, the BLM auctions land under the Southern Nevada Public Lands Management Act. A good deal of this land is purchased by developers. In early 2018, the BLM auctioned more than 460 acres of Clark County land for future development. Much of this land was purchased by residential homebuilders active throughout Clark County. Even more recently, the Clark County Board of County Commissioners (Clark County Board) approved a resolution seeking federal legislation that would allow for nearly 39,000 acres of additional federal land to be open for future development.<sup>1</sup>

Each parcel of land within Clark County holds two distinct land use designations: its zoning district and its underlying master plan. Under Nevada Revised Statute 278, if for any reason there is a conflict between the existing zoning and master plan, the existing zoning controls. Each master plan designation allows for certain zoning districts. Each zoning district has uses that can be developed as a matter of right, conditionally, as an accessory or temporary use, or with the approval of a special use permit. These various uses are outlined within the Clark County Development Code.<sup>2</sup> By way of example, a mini-storage facility is permitted within General Commercial (C-2) districts. Such a use is restricted within residentially zoned districts.

A quick review of the current zoning designations of recently auctioned BLM land as part of the Southern Nevada Public Lands Management Act shows the vast majority of BLM land is limited to low-density zoning districts of two homes per acre. Many of these parcels are located near, or adjacent to, existing residential communities with much higher densities, some single family as high as eight homes to the acre. Many developers purchase these low-density BLM parcels with the clear intent of requesting a zone change to allow for higher density projects. When someone seeks to develop property at a density higher than that for which it is planned, a "non-conforming zone change" is required.

## Non-Conforming Zone Changes

Chapter 30.08.030 of the code defines a non-conforming zone change as a proposed boundary amendment not within the range of residential densities and/or non-residential intensities indicated on the applicable land use plan map or community district map. The Clark County Board has the discretion to approve or deny all non-conforming zone change requests or to reduce a request to a more restrictive zoning district that it believes to be compatible with nearby or adjacent properties.<sup>3</sup>

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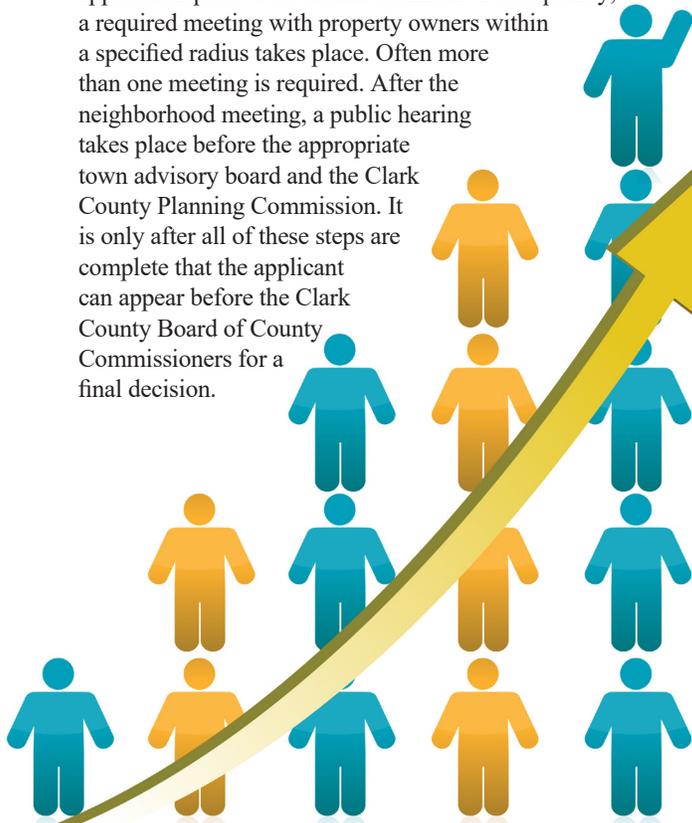
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Compatibility is defined as the characteristics of different land uses that allow them to be harmoniously located near or adjacent to each other with minimal impact.<sup>4</sup> For example, an industrial use producing hazardous materials would be incompatible adjacent to a rural neighborhood preservation community consisting of two homes to the acre or fewer. *Id.* To the contrary, proposed residential development seeking five homes to the acre, adjacent to an existing residential community with similar lot sizes and density, would likely be determined to be compatible.

A non-conforming zone change is one of the most involved, complex and lengthy processes of the code. These requests can take many months to more than a year, depending on the circumstances of a particular case. A property owner or applicant must complete several steps prior to appearing before the Clark County Board with its request. As provided in the code, an applicant must first submit to the Clark County Planning Department an extensive application, along with significant application fees. A meeting with several Clark County Departments is necessary in order to review the proposed application prior to its formal submittal. Subsequently, a required meeting with property owners within a specified radius takes place. Often more than one meeting is required. After the neighborhood meeting, a public hearing takes place before the appropriate town advisory board and the Clark County Planning Commission. It is only after all of these steps are complete that the applicant can appear before the Clark County Board of County Commissioners for a final decision.



The non-conforming zone change process provides an opportunity for Clark County to offer a variety of housing options for the large number of residents relocating to Las Vegas each year. The non-conforming zone change process affords many potential new residents the opportunity to purchase a lot size and corresponding home within their price ranges. Very few people can afford a half-acre lot and the home to be constructed on it.

## Population Increase throughout Clark County

Without the ability to provide a variety of housing options to its residents, we run counter to the intent of the overall land use and development plan for Clark County. The Clark County Comprehensive Master Plan is a long-term, general-policy plan for the physical development of unincorporated Clark County, satisfying the requirements of Nevada Revised Statute 278.160. The master plan and its elements are routinely updated to adapt to the evolving needs of Clark County. Providing housing alternatives to meet a range of lifestyle choices, ages and affordability levels is one of the many policies laid out in the master plan.

According to the U.S. Census Bureau, Clark County is the second-largest growing county in America. Clark County's population increased by nearly 47,500 people from the period of July 1, 2016 to July 1, 2017, increasing the number of residents in Clark County to 2,204,079; and these numbers continue to grow. Understandably and necessarily with this population increase comes an increased need for additional housing options.

For decades, throughout the Las Vegas Valley, growth has transformed once stand-alone neighborhoods to high-traffic communities, with a variety of uses and densities. The homes that once encompassed the boundaries of our county are now centrally located, surrounded by various housing options and numerous and varied commercial developments.

Zoning itself is a study in proper planning and flexibility, with a goal of limiting that "planning" to reaction only. To say property must be forever restricted to a certain zoning designation will invariably restrict proper expansion and development. As Clark County continues to expand, we must adapt to the inevitable changes, including the zoning re-designations of existing BLM property, where appropriate. This adaptability will allow Clark County to continue to grow and thrive. **NL**

1. See Clark County Board of Commissioners Resolution to Employ Smart Growth. Planning Strategies (June 2018).
2. See Title 30 Clark County Development Code, Chapter 30.44.005.
3. See Title 30, Table 30.16-3.
4. See Title 30 Clark County Development Code, Chapter 30.44.005.



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