



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: APRIL 11, 2023

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: EXOS APARTMENTS, LLC

**** STAFF RECOMMENDATION(S) ****

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
22-0718-SDR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 30

NOTICES MAILED 222

PROTESTS 0

APPROVALS 0

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**** CONDITIONS ****

22-0718-SDR1 CONDITIONS

Planning

1. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. All development shall be in conformance with the site plan, landscape plan, and building elevations, date stamped 02/08/23, except as amended by conditions herein.
3. A Waiver from Title 19.09 is hereby approved, to allow three parking spaces where 12 is the minimum required.
4. A Waiver from Title 19.09 is hereby approved, to allow a 65-foot main body building depth where 50 feet is the maximum allowed.
5. A Waiver from Title 19.09 is hereby approved, to allow a one-foot front yard setback where five feet is the minimum required.
6. A Waiver from Title 19.09 is hereby approved, to allow an engaged porch where such street frontage is not allowed in the T5-N (T5 Neighborhood) transect zone
7. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for a building permit.
9. The applicant shall coordinate with the City Surveyor and other city staff to determine the most appropriate mapping action necessary to consolidate the existing lots. The mapping action shall be completed and recorded prior to the issuance of any building permits.
10. All utility or mechanical equipment shall comply with the provisions of the Interim Downtown Las Vegas Development Standards, unless approved by a separate Waiver.

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11. A revised site plan shall be submitted to and approved by the Department of Community Development, prior to the time application is made for a building permit, to reflect the changes herein.
 - The sidewalk must be extended into the setback area to meet the building.
12. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer, or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, which shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. Installed landscaping shall not impede the visibility of any traffic control device. The technical landscape plan shall include the following changes from the conceptual landscape plan:
 - a. Any non-district specific landscaping within the amenity zone areas shall be replaced with Fremont East-specific landscaping as reflected in Title 19.09.040.
13. No turf shall be permitted in the non-recreational common areas, such as medians and amenity zones in this development.
14. A fully operational fire protection system, including fire apparatus roads, fire hydrants, and water supply, shall be installed and shall be functioning prior to the construction of any combustible structures.
15. A Comprehensive Construction Staging Plan shall be submitted to the Department of Community Development for review and approval prior to the issuance of any building permits. The Construction Staging Plan shall include the following information: Design and location of construction trailer(s); design and location of construction fencing; all proposed temporary construction signage; location of materials staging area; and the location and design of parking for all construction workers.
16. Prior to the submittal of a building permit application, the applicant shall meet with Department of Community Development staff to develop a comprehensive address plan for the subject site. A copy of the approved address plan shall be submitted with any future building permit applications related to the site.
17. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

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Public Works

18. The sidewalk adjacent to this site shall meet Public Right-of-Way Accessibility Guidelines (PROWAG) in accordance with code requirements of Title 13.56.040 and in accordance with Section 2.2 of the City's Vision Zero Action Plan, to the satisfaction of the City Engineer concurrent with the development of this site. Grant any Pedestrian Access Easement needed to complete this requirement. Above ground utilities are not allowed in the public right-of-way without the approval of the City Engineer.
19. Coordinate sewer connection at a size, depth, and location acceptable to the Sanitary Sewer Section of the Department of Public Works. A minimum diameter for new private sewer laterals to commercial developments is six inches.
20. Landscape and maintain all unimproved right-of-way adjacent to this site. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
21. Submit a License Agreement for landscaping in the adjacent public rights-of-way, if any, prior to the issuance of permits for these improvements. If requested by the City, the applicant shall remove property within the public right-of-way at the applicant's expense pursuant to the terms of the City's License Agreement. The installation and maintenance of all private improvements in the public right of way shall be the responsibility of the applicant and any successors in interest to the property and assigns pursuant to the terms of the License Agreement. Coordinate all requirements for the License Agreement with the Land Development Section of the Department of Building and Safety (702-229-4836).
22. Parking spaces designed perpendicular to and accessed directly from public alleys shall be a minimum of 22 feet in depth from the alley right-of-way line.
23. In accordance with Section 2.2 of the City's Vision Zero Action Plan, prior to the submittal of construction drawings for this site submit a pedestrian circulation plan to identify nearby pedestrian attractors and recommend measures to accommodate pedestrians, such as but not limited to pedestrian access, crosswalk, pedestrian-activated flashers, and temporary sidewalks. Comply with the recommendation of the approved pedestrian circulation plan.
24. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to the submittal of construction plans, the issuance of any building or grading permits, or the submittal of a map for this site, whichever may occur first. Provide and improve all drainage ways as recommended.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is proposing to develop a three-story, 20-unit multi-family residential development on 0.20 acres on the east side of 9th Street approximately 173 feet north of Stewart Avenue.

ISSUES

- The subject site is within the confinements of the Vision 2045 Downtown Las Vegas Master Plan (Fremont East District) [Area 3].
- A Site Development Plan Review (22-0718-SDR1) is requested for a three-story, 20-unit multi-family residential development. Staff recommends approval.
- Waivers of the Title 19.09 Form-Based Code Development Standards are requested to allow:
 - A Waiver is requested to allow three parking spaces where 12 are the minimum required. Staff does not support this request.
 - A Waiver is requested to allow a 65-foot main body building depth where 50 feet is the maximum allowed. Staff does not support this request.
 - A Waiver is requested to allow a one-foot front yard setback where five feet is the minimum required. Staff does not support this request.
 - A Waiver is requested to allow an engaged porch where such street frontage is not allowed in the T5-N transect zone. Staff does not support this request.
- The subject site is located in Redevelopment Area 1.

ANALYSIS

Adopted by the City Council in June 2016, the *Vision 2045 Downtown Las Vegas Master Plan* (Downtown Master Plan) is the policy document that provides an overall vision, policy direction, and implementation strategy in support of the ongoing recovery and revitalization in Downtown Las Vegas. The Downtown Master Plan envisions and encourages downtown Las Vegas to achieve a compact, vibrant urban environment, with a focus on higher-density mixed-use development around transit hubs and activity nodes. The Master Plan is intended to enable an energetic, urban way of life and a high-quality physical environment for locals and visitors alike.

Adopted under the requirements of the Las Vegas Municipal Code and other applicable laws, the Title 19.09 Form-Based Code establishes the new form-based standards for the

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area of the City included within the Downtown Las Vegas Overlay (DTLV-O). Eventually, the Form-Based Code will be applied to each of the twelve Downtown Districts within the Downtown Las Vegas Overlay District.

The subject site is located within the Fremont East District of Downtown Las Vegas. Fremont East has gained residents and shops through its popularity due to its proximity to the Resort and Casino District but is in need of a more pedestrian-friendly atmosphere for continued success and growth. The subject site is located in a T4-C (T4 Corridor) transect zone. This transect zone intends to enhance the City's existing corridors by allowing a wide variety of building types to accommodate a range of commercial, retail, office, and service uses in small to large-footprint buildings along major arterial corridors carrying high volumes of vehicular traffic. This transect zone is governed by Title 19.09 which regulates the form-based code development standards. The 0.20-acre subject site is located on the east side of 9th Street approximately 173 feet north of Stewart Avenue. The applicant is requesting a Site Development Plan Review to redevelop the subject site with a three-story, 20-unit multi-family residential development.

Multi-Family Residential is defined as "A structure used or designed as a residence for three or more families or households living independently of each other." Multi-Family Residential is a permitted use in the T5-N (T5 Neighborhood) transect zoning district.

Under the Title 19.09 Form-Based Code Development Standards, the proposed development is categorized as a Multi-Plex Small building type with an engaged porch street frontage. The engaged porch frontage is not allowed in the T5-N transect zone, as this frontage is suited for a building type with a small to medium setback from the frontage line. A Waiver from Title 19.09 is requested to allow this building type within the T5-N transect zone.

Development projects within form-based code-designated areas of Downtown Las Vegas are subjected to an alternative parking reduction based upon a variety of factors such as neighborhood context and current or future infrastructure. Pursuant to Title 19.09.100 Table G-1 (High Load - Zone 3), the reduction brings the parking requirement range from a minimum of 12 parking spaces to a maximum of 21 parking spaces. The parking for the proposed development is outside of this threshold, as three parking spaces are provided. As such, a Waiver of Title 19.09 is requested to allow a deviation from this standard. After the reduction, the applicant is only providing 25 percent of the already reduced minimum requirement. Staff finds this Waiver to be a self-imposed hardship and evidence of overdeveloping the subject site.

The submitted floor plan date stamped on 02/08/23 shows each of the buildings broken down by floor. All 20 units of the proposed development are one-bedroom units with the six units on each of the building's second floors being two-story lofts. The units range in size from 468 square feet to 643 square feet.

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The building elevations date stamped on 02/08/23 demonstrate a 45-foot tall, three-story building comprised of a variety of materials. The building primarily consists of Nichia fiber cement architectural wall panels, white stucco, and timber-looking aluminum cladding. All sides of the proposed building are coherently designed and treated with a consistent level of detailing and finish in compliance with Title 19.08.

The landscape plan date stamped on 02/08/23 depicts 24-inch Desert Museum Palo Verde, Western Honey Mesquite, and Mulga trees and a variety of five-gallon bushes interchangeably used throughout the site. Within the Form-Based Code Development Standards, district-specific trees are required within the amenity zone area, creating a defining character and comprehensive neighborhood feel. Desert Museum Palo Verde trees are not listed on the district-specific tree palette for Fremont East. As such, Condition of Approval #12 has been added to replace these trees accordingly. The remaining landscaping materials are included on the Southern Nevada Regional Planting Coalition list and are appropriate for a desert climate. Lastly, a 1,040-square-foot courtyard area is provided meeting the open space requirement per each residential unit.

2050 Master Plan

The subject site is located within the Master Plan 2050 designated area of Downtown Las Vegas which is the City's civic, commercial, and cultural hub. Located in the center of the Las Vegas Valley, encompassing the original 1905 Clark's Townsite, it functions as a primary regional center of Southern Nevada together with the Las Vegas Strip. Centered along Fremont Street, Downtown is the original home to local gaming and tourism. It continues to attract visitors looking for a historic and authentic Las Vegas experience. The Downtown of tomorrow is envisioned as a vibrant and livable urban environment and will continue to "Reinvent the Legend" through the complete implementation of the Vision 2045 Downtown Las Vegas Master Plan.

Vision 2045 Downtown Las Vegas Master Plan

The Vision 2045 Downtown Las Vegas Master Plan envisions the Fremont East District featuring infill and diverse multi-family housing products. While residential development is strongly encouraged by the Vision 2045 Downtown Las Vegas Master Plan, the proposed development is too intense for the subject site, boasting a density of 100 dwelling units per acre on only a small 0.20-acre site.

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Redevelopment Plan

The proposed site is located within the Redevelopment Plan Area 1 and if approved would support the goals of the Redevelopment Agency by developing an area that is stagnant or improperly used.

While the proposed development supports housing-related goals as in the 2050 Master Plan and Vision 2045 Downtown Master Plan, staff finds that the proposed development is a request to overdevelop the subject site as evidenced by the density of 100 units per acre and lack of parking. Consequently, staff finds that the proposed development would not be harmonious or compatible with the surrounding area and therefore recommends denial. If approved the proposed development is subject to conditions.

FINDINGS (22-0718-SDR1)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

1. **The proposed development is compatible with adjacent development and development in the area;**

The proposed Multi-Family Residential development is compatible with the adjacent development within the surrounding area of the subject site.

While the proposed development meets housing-related goals and objectives of the Vision 2045 Downtown Las Vegas Master Plan, the lack of parking provided remains a major concern. The applicant is proposing to offload their required parking spaces within the surrounding downtown area. This will create an unnecessary burden to the neighboring developments in the area, and is therefore not compatible.

2. **The proposed development is consistent with the General Plan, this Title, and other duly-adopted city plans, policies, and standards;**

While the proposed Multi-Family Residential development helps further housing-related goals, objectives, and guiding principles identified in both the 2050 Master Plan and Vision 2045 Downtown Master Plan, the proposed development is not consistent with the Title 19.09 Form Base Code Development Standards as evidenced by the requested Waiver for a reduction to parking.

3. **Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

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Site access is provided by 9th Street, an 80-foot commercial street. For development purposes, 9th Street is also categorized as a secondary thoroughfare; however, this is the primary thoroughfare as it is the only street adjacent to the proposed development. 9th Street and adjacent roadways are adequate in size to serve the scale of the proposed development. The lack of sufficient on-site parking would negatively impact adjacent roadways and neighborhood traffic.

4. Building and landscape materials are appropriate for the area and for the City;

The proposed building and landscape materials are appropriate for a desert climate and the city. All provided landscaping is included on the Southern Nevada Regional Planting Coalition list and are appropriate for a desert climate.

5. Building elevations, design characteristics, and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

Building elevations and design characteristics are not unsightly or obnoxious in appearance and create an orderly and aesthetically pleasing environment. The elevation plan date stamped on 02/08/23, shows the façade comprised of a variety of materials. The building primarily consists of Nichia fiber cement architectural wall panels, white stucco, and timber-looking aluminum cladding. All sides of the proposed building are coherently designed and treated with a consistent level of detailing and finish in compliance with Title 19.08.

6. Appropriate measures are taken to secure and protect the public health, safety, and general welfare.

If approved, the development of the site will be subject to building permit review and inspection, thereby protecting the health, safety, and general welfare of the public.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
10/16/19	The City Council approved a General Plan Amendment (GPA-75814) to amend portions of the Southeast Sector Land Use Map of the General Plan from: C (Commercial) and MXU (Mixed Use) to: FBC (Form-Based Code) on approximately 226 acres in the Fremont East District generally located south of Interstate 515, west of Eastern Avenue, north of Carson Avenue, and east of Las Vegas Boulevard. The Planning Commission and Staff recommended approval.
	The City Council approved a Rezoning (ZON-76747) from: C-1 (Limited Commercial), C-2 (General Commercial), R-5 (Apartment) R-4 (High Density), R-3 (Medium Density), and R-2 (Medium Low Density) to: T4-N (T4 Neighborhood), T4-MS (T4 Main Street), T4-C (T4 Corridor), T5-N (T5 Neighborhood), T5-MS (T5 Main Street), and T6-UC (T6 Urban Core) on approximately 226.00 acres in the Fremont East District generally located south of U.S. Highway 515, east of Las Vegas Boulevard, north of Carson Avenue, and west of Eastern Avenue. The Planning Commission and Staff recommended approval.
02/09/21	A Code Enforcement Case (CE21-00489) was reported for an encampment in the rear yard with trash and debris at 314 North 9 th Street. The case was resolved on 08/23/21.
12/13/21	A Code Enforcement Case (CE21-05704) was reported for a vagrant encampment in a vacant church property at 314 North 9 th Street. The case was resolved on 02/01/22.

<i>Most Recent Change of Ownership</i>	
10/11/21	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
05/24/22	A Building Permit (R22-07866) was issued for demolition at 314 North 9 th Street.

<i>Pre-Application Meeting</i>	
12/04/22	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Site Development Plan Review pertaining to a proposed three-story, 20-unit multi-family residential development at the subject site.

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Neighborhood Meeting

A neighborhood meeting was not required, nor was one held.
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Field Check

03/08/22	A routine field check was conducted of the subject site; staff found an enclosed undeveloped site.
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Details of Application Request

Site Area

Net Acres	0.20
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Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Undeveloped	FBC (Form Based Code)	T5-N (T5 Neighborhood)
North			
South			
East			
West	Multi-Family Residential		T5-MS (T5 Main Street)
	Single-Family Residential		

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Downtown Las Vegas	Y
Vision 2045 Downtown Las Vegas Master Plan	Y
Special Area and Overlay Districts	Compliance
DTLV-O (Downtown Las Vegas Overlay) District – Area 3 (Fremont East)	Y
LW-O (Live/Work Overlay) District	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area – Area 1	Y
Interlocal Agreement	N/A
Project of Significant Impact	N/A
Project of Regional Significance	N/A

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DEVELOPMENT STANDARDS

Pursuant to Title 19.09, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Table D. Building Types			
Building Type (Multi-Plex Small)	Main Body Width: 50 Feet Maximum Main Body Depth: 50 Feet Maximum Secondary Wing Width: 20 Feet Maximum Secondary Wing Depth: 20 Feet Maximum	43 Feet 65 Feet N/A N/A	Y N* N/A N/A
Access Standards (If applicable)	Pedestrian access to the building must be from the thoroughfare or courtyard.		Y
Table E. Building Placement			
Setback Distance (Front)	5 Feet Minimum 15 Feet Maximum	1 Foot	N*
Setback Distance (Interior Side)	0 Feet Minimum 30 Feet Maximum	0 Feet	Y
Setback Distance (Rear)	5 Feet Minimum	25 Feet	Y
Building Façade (Front) [9 th Street Street]	65% Minimum	86%	Y
Miscellaneous	The sidewalk must be extended into the setback area to meet the building.		By Condition**
Table F. Building Form Standards			
Building Height	2 Stories Minimum 5 Stories Maximum	3 Stories	Y
Floor-to-Ceiling (Ground)	N/A	12 Feet	Y
Floor-to-Ceiling (Upper)	8 Minimum	9 Feet Minimum	Y
Footprint – Lot Coverage	85% Maximum	61%	Y
Depth – Gross Floor Space	20 Feet Minimum	N/A	N/A
Table G. Frontages			
Frontage 1 [9 th Street]	Forecourt Gallery Shopfront Stoop Terrace	Porch: Engaged	N*
Pedestrian Access			N/A

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Table H. Frontages			
Encroachment Type (Porch: Engaged)	N/A	N/A	N*
Table I. Use Types			
Downtown Residential (Multi-Family Residential)			P
Table J. Parking Standards			
Setback from Lot	Front: 10 Feet Interior Side: 0 Feet Rear: 0 Feet	157 Feet 0 Feet 0 Feet	Y
Table K. Required Street Trees			
Amenity Zone Tree Planting	Indian Rosewood Mexican Ebony Yaupon Holly Osage Orange Red Push Pistache Chinese Pistache Mastic Tree Willow Pittosporum Blue Oak Escarpment Oak Monterrey Oak Cathedral Live Oak High Rise Live Oak Heritage Live Oak Texas Mountain Laurel Cedar Elm	Desert Museum Palo Verde	N***
Table L. Open Space			
Miscellaneous	Width: 20 Feet Depth: 20 Feet Open Space Per Unit: 50 SF (1,000 SF)	43 Feet 20 Feet 1,040 SF	Y Y Y

**The applicant has requested Waivers of the following Title 19.09 Form-Based Code Development Standards.*

***Condition of Approval #11 has been added ensuring compliance with this requirement.*

****Condition of Approval #12 has been added requiring the inclusion of district-specific landscaping materials within the provided amenity zone areas.*

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Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
9 th Street	Secondary Thoroughfare	Title 19.09	80 Feet	Y
	Commercial Street	Title 19.09		Y
	Local Street	Title 13		Y

Parking Requirement - Downtown (Areas 1-3)						
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided	
			Parking		Parking	
			Regular	Handi-capped	Regular	Handi-capped
Multi-Family Residential - Studio or 1 Bedroom Units	20 Units	1.25 per unit	25			
Multi-Family Residential - Guest Parking	20 Units Total	1 per every 6 total units	4			
TOTAL SPACES REQUIRED (unweighted)			29			
TOTAL SPACES REQUIRED (weighted requirement, see below)			12 to 21		3	N*
Regular and Handicap Spaces Required			12		2	1
Downtown Form Based Code Parking Standards - Title 19.09.100.G						
Parking Standards High Load – Zone 3			Between 40% and 70%		12 Minimum 21 Maximum	
Bicycle Parking Requirements			0**		2	

*A Waiver is requested to allow a deviation from the following standards.

**The following standard is only applicable for residential development when more than 20 units are provided. At 20 total units, the following standard is not applicable.

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Waivers		
Requirement	Request	Staff Recommendation
Based on the size and scale of the proposed development, a minimum of 12 parking spaces to a maximum of 21 parking spaces shall be provided.	To allow three parking spaces where 12 is the minimum required.	Denial
The main body depth for a multi-plex small building shall be a maximum of 50 feet.	To allow a 65-foot main body building depth where 50 feet is the maximum allowed.	Denial
The front yard setback shall be between a five-foot minimum to a 15-foot maximum in the T5-N transect zone.	To allow a one-foot front yard setback where five feet is the minimum required.	Denial
A private frontage type shall be provided in compliance with Title 19.09.070.	To allow an engaged porch where such street frontage is not allowed in the T5-N transect zone.	Denial

Department of Public Works Traffic Study

Proposed 20-Unit Apartment Building - East Side of 9 th Street, North of Stewart Avenue				
Proposed Use				
Average Daily Traffic (ADT)	MULTIFAMILY HOUSING (LOW-RISE) [SU]	20	6.74	135
AM Peak Hour			0.40	8
PM Peak Hour			0.51	10
Existing Traffic on Nearby Streets				
Stewart Avenue				
Average Daily Traffic (ADT)			6,347	
PM Peak Hour (Heaviest 60 Minutes)			508	
9 th Street				
Average Daily Traffic (ADT)			793	
PM Peak Hour (heaviest 60 minutes)			63	
Traffic Capacity of Adjacent Streets:				
Adjacent Street ADT Capacity				
Thom Boulevard			27,040	
Rome Boulevard			12,480	

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<i>Summary</i>
<p>This project is expected to add an additional 135 trips per day on Stewart Avenue and 9th Street. Currently, Stewart Avenue is at about 23 percent of capacity and 9th Street is at about six percent of capacity. With this project, Stewart Avenue is expected to be at about 24 percent of capacity and 9th Street to be at about seven percent of capacity.</p> <p>Based on Peak Hour use, this development will add into the area roughly 10 additional peak hour trips, or about one every six minutes.</p>