

10/03/23 PC AGENDA SHEET

RESTAURANT WITH DRIVE-THRU
(TITLE 30)

CACTUS AVE/DEAN MARTIN DR

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

WS-23-0537-RMA BICENTENNIAL, LLC:

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** eliminate cross access; **2)** eliminate landscaping adjacent to a less intensive use; and **3)** reduce the height/setback ratio requirement adjacent to a single family residential use in conjunction with a previously approved restaurant with drive-thru and outside dining on 1.2 acres in a C-1 (Local Business) Zone.

Generally located on the south side of Cactus Avenue, 380 feet west of Dean Martin Drive within Enterprise. JJ/md/syp (For possible action)

RELATED INFORMATION:

APN:

177-32-101-030

WAIVERS OF DEVELOPMENT STANDARDS:

1. Eliminate cross access where cross access shall be provided to non-residential land uses that are similar or complementary with consistent levels of intensity and similar parking per Table 30.56-2.
2. Eliminate landscaping adjacent to a less intensive use (single family residential) where landscaping and screening, including a decorative block wall, is required per Figure 30.64-11.
3. Reduce the height/setback ratio requirement adjacent to a single family residential use to 43.5 feet where 67.5 feet is required per Section 30.56.070 and Figure 30.56-10 (a 35.6% reduction).

LAND USE PLAN:

ENTERPRISE - NEIGHBORHOOD COMMERCIAL

BACKGROUND:

Project Description

General Summary

- Site Address: N/A
- Site Acreage: 1.2
- Project Type: Retail building (coffee shop) with drive-thru and outside dining area
- Number of Stories: 1
- Building Height (feet): 22.5
- Square Feet: 2,469 (restaurant)/900 (outside dining)

- Parking Required/Provided: 28/36

History and Request

ZC-22-0441 was previously approved by the Board of County Commissioners (BCC) in September 2022 to reclassify the project site from an R-E to a C-1 zoning district for a restaurant (coffee shop) with drive-thru. The applicant is now requesting to eliminate cross access, eliminate landscaping adjacent to a less intensive use, and reduce the height/setback ratio requirement adjacent to a single family residential use between the restaurant (coffee shop) that is presently complete and the residential use to the east. No modifications are proposed to the approved site plan. The R-E zoned lot immediately adjacent to the east of the project site is currently under resolution of intent and was reclassified to a C-1 zoning district via NZC-22-0324 by the BCC in September 2022. The R-E zoned lot was previously developed with a single family residence, which has now been demolished. The lot to the east has also been approved for a coffee shop; however, the planned land use designation of Mid-Intensity Suburban Neighborhood remains, necessitating the waiver of development standards requests.

Site Plans

The previously approved plans depict a restaurant (coffee shop) with a drive-thru that is presently complete with tenant improvements currently being installed, located near the front portion of the site. The building is located along Cactus Avenue with the drive-thru aisle located on the south, east, and north sides of the building, and traffic will circulate around the building. While a single drive-thru lane provides service, there is an “escape” lane located to the east of the drive-thru lane. Parking is provided on the western portion of the site. There is 1 main access point shown along Cactus Avenue where a detached sidewalk with landscaping is located on the eastern side of the driveway. The outside dining area is located to the south of the building and is 53 feet from the east property line, 93 feet from the west property line, and over 118 feet from the south property line, all within 200 feet of a residential development. The order talk box is located east of the dining area, facing a single family residence (which has now been demolished) located approximately 36 feet to the east, with the delivery window located on the north elevation of the building. The approved site plan included an area on the south side of the lot, which extended east in an “L” shape, adjacent to the southern property line of the single family residence (which has now been demolished) to the east of the coffee shop. The portion of the “L” shaped lot is now a separate parcel, APN 177-32-101-031, and is under separate ownership. Therefore, APN 177-32-101-031 is not a part of this application and will not be landscaped, as depicted on the approved site plan. Furthermore, no development is currently proposed for APN 177-32-101-031. The drive-thru restaurant requires 28 parking spaces where 36 parking spaces are provided.

Landscaping

The approved plans depict street landscaping that includes a 25 foot wide landscape area along Cactus Avenue with a 5 foot wide detached sidewalk. The approved 11 foot wide intense landscape buffer along the east property line will now be removed, necessitating a waiver of development standards to eliminate landscaping adjacent to a less intensive use. The proposed landscape area along the east property line will now consist of a 2 foot high decorative retaining wall with a 10 foot wide landscape area consisting of shrubs and groundcover. A 10.5 foot wide intensive landscape buffer is provided along the south and west property lines. While there are a

minimal number of landscape finger islands, the westernmost parking is adjacent to the landscape buffer which exceeds the required number of parking lot trees. Landscaping is provided between the outside dining and the drive-thru lane. Landscape materials include Mexican Palo Verde, African Sumac, Shoestring Acacia, Wilson Olive, Holly Oak, Purple Leaf Plum, Willow Pittosporum, various shrubbery, and groundcover.

Elevations

The approved plans depict a 1 story building with a maximum height of 22.5 feet. The building has a flat roof behind parapet walls with a patio cover over the outside dining area, and the patio area is enclosed on 3 sides by cable railing. The exterior of the building includes painted stucco siding, stone veneer accents, aluminum store front windows and doors, and metal awnings.

Floor Plans

The approved plans depict a 2,469 square foot building for the proposed coffee shop. The outside dining area is covered with open seating.

Signage

Signage is not a part of this request.

Applicant's Justification

The approved restaurant with drive-thru (Starbucks) is substantially complete with the installation of landscaping to be one of the final remaining on-site works to be completed. The building is complete with tenant improvements currently being installed. Therefore, all technical studies, such as drainage, traffic, and Civil plans, have been completed and approved. The building was permitted with BD22-60847 while the tenant improvement permit is per BD23-30642. When the original entitlement for Starbucks was processed, the adjacent property to the east was in the process of a rezoning to C-1 zoning, and therefore, was still considered a single family residential use. The single family residence on that parcel has now been demolished.

The first waiver request is to eliminate screening and buffering adjacent to a less intense use along a portion of the east property line. The southern parcel directly south of the east parcel was originally part of the approved site and was considered a flag lot. Therefore, that portion of the eastern site is permanently zoned C-1 and does not require any buffering while the property that was part of the original request is under resolution of intent to C-1 zoning (NZC-22-0324) but still considered a single family residential use until the proposed project is substantially complete and all conditions of the Resolution of Intent (ROI) have been met.

The second waiver request is to reduce the building height setback ratio for a drive-thru restaurant to a residential use to 43.5 feet where a minimum of 67.5 feet is required per Code. By eliminating the screening and buffering, which also includes elimination of the 6 foot high screen wall, the provisions for the 3 to 1 building height setback ratio apply to any non-residential building over 14 feet in height.

The third waiver request is to not provide cross access to the adjacent site that is under resolution of intent. The reason for the request is that both approved site plans conflict with either required

parking, drive-thru lanes, and/or stacking of vehicles. The project site is almost complete and it would be impossible to provide cross access with their approved plan.

The setback and screening and buffering waivers are required along the east property line since the property is still considered a single family residential use even though the property has been rezoned to C-1 and is virtually under construction. For all practical purposes, the property to the east will be zoned C-1 when the construction is substantially complete but must be considered a single family use until then. The proposed revision to the site along a portion of the east property line is a 2 foot high decorative retaining wall with a 10 foot wide landscape area consisting of shrubs and groundcover. Therefore, there will not be any adverse impacts associated with the requests.

Prior Land Use Requests

Application Number	Request	Action	Date
VS-22-0442	Vacated and abandoned a portion of right-of-way being Cactus Avenue to accommodate the required detached sidewalk and vacate patent easements	Approved by BCC	September 2022
ZC-22-0441	Reclassified the subject property from R-E to C-1 zoning for a commercial development, with a use permit to reduce the required separation from an outside dining to a residential use, waivers of development standards for a talk box location and to allow modified driveway design standards, and design reviews for a restaurant (coffee shop) with a drive-thru and outside dining area and alternative parking lot landscaping	Approved by BCC	September 2022
PA-21-700005	Re-designated the land use category from Mid-Intensity Suburban Neighborhood (MN) to Neighborhood Commercial (NC)	Approved by BCC	February 2022
VS-17-0269	Vacated a portion of Polaris Avenue	Approved by BCC	June 2017

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Corridor Mixed-Use	C-2	Retail
South & West	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-3	Multiple family residential
East	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	C-1*	Retail & Single family residential

The subject site is within the Public Facilities Needs Assessment (PFNA) area.

*The lot immediately adjacent to the east of the project site is currently under resolution of intent and was reclassified to a C-1 zoning district via NZC-22-0324 by the BCC in September 2022. A restaurant (coffee shop) with drive-thru was approved for this site.

STANDARDS FOR APPROVAL:

The applicant shall demonstrate that the proposed request meets the goals and purposes of Title 30.

Analysis

Comprehensive Planning

Waivers of Development Standards

According to Title 30, the applicant shall have the burden of proof to establish that the proposed request is appropriate for its existing location by showing that the uses of the area adjacent to the property included in the waiver of development standards request will not be affected in a substantially adverse manner. The intent and purpose of a waiver of development standards is to modify a development standard where the provision of an alternative standard, or other factors which mitigate the impact of the relaxed standard, may justify an alternative.

Waiver of Development Standards #1

The intent of providing cross access is to promote public safety, efficient on-site vehicular circulation, shared parking with adjacent properties, and to minimize curb cuts along streets. Staff typically does not support requests to waive cross access to adjacent properties with similar land uses and parking requirements. However, staff does not object to this request for the following reasons: 1) the adjacent parcel to the east of the restaurant was also approved for a restaurant (coffee shop) with drive-thru and did not propose future cross access; and 2) the approved site plan for the restaurant east of the project site makes cross access difficult and impractical, as cross access traffic would interfere with the drive aisle and queuing lanes of the restaurant. Therefore, staff recommends approval of this request.

Waiver of Development Standards #2

The intent of providing landscaping adjacent to a less intensive use (single family residential) is to ensure there is appropriate screening through trees and decorative block walls to mitigate any potential impact from the non-residential use. The project site is currently developed with the restaurant with drive-thru, and is undergoing tenant improvements, while the parcel to the east is currently undeveloped (the single family residence on this parcel was demolished). However, the parcel to the east is currently planned for Mid-Intensity Suburban Neighborhood, requiring the waiver of development standards to eliminate the perimeter landscaping. The parcel to the east has previously been approved for a restaurant (coffee shop) with drive-thru via NZC-22-0324. Staff typically does not support requests to eliminate landscaping adjacent to a less intensive use; however, it is highly unlikely the parcel to the east will develop as a single family residence. Eliminating the landscaping along the east property line should have no impact on the parcel to the east; therefore, staff recommends approval.

Waiver of Development Standards #3

The intent of the height setback ratio is to ensure there is a sufficient setback distance from non-residential and multiple family development to a single family residential use. However, the single family residence on the parcel immediately to the east of the project site has been demolished in preparation for the construction of a restaurant with a drive-thru (NZC-22-0324). Although the single family residence has been demolished, the parcel to the east remains planned for single family residential uses (Mid-Intensity Suburban Neighborhood), necessitating the

waiver of development standards. Staff typically does not support requests to reduce the height setback ratio; however, it is highly unlikely the parcel to the east will develop as a single family residence. The reduction to the height setback ratio should have no impact on the parcel to the east; therefore, staff recommends approval.

Staff Recommendation

Approval.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Master Plan, Title 30, and/or the Nevada Revised Statutes.

PRELIMINARY STAFF CONDITIONS:

Comprehensive Planning

- Enter into a standard development agreement prior to any permits or subdivision mapping in order to provide fair-share contribution toward public infrastructure necessary to provide service because of the lack of necessary public services in the area;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that the installation and use of cooling systems that consumptively use water will be prohibited; that the County has adopted a rewrite to Title 30 effective January 1, 2024, and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified; and that this application must commence within 2 years of approval date or it will expire.

Public Works - Development Review

- No comment.

Clark County Water Reclamation District (CCWRD)

- No comment.

TAB/CAC: Enterprise - approval.

APPROVALS:

PROTESTS:

APPLICANT: ACTIVE COMMERCIAL, LLC

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