

06/21/23 BCC AGENDA SHEET

COMMERCIAL CENTER  
(TITLE 30)

FORT APACHE RD/HUNTINGTON COVE PKWY

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**WC-23-400051 (UC-0563-14)-TOP SHELF DEVELOPMENT, LLC:**

**WAIVER OF CONDITIONS** of a use permit to remove the proposed drive-thru as shown on Future Pad #1 in conjunction with an approved retail center on 2.0 acres in a C-2 (General Commercial) Zone.

Generally located on the west side of Fort Apache Road and north side of Huntington Cove Parkway within Enterprise. JJ/jor/syp (For possible action)

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RELATED INFORMATION:

**APN:**

176-18-518-001

**LAND USE PLAN:**

ENTERPRISE - CORRIDOR MIXED-USE

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: 8275 S. Fort Apache Road
- Site Acreage: 2
- Project Type: Commercial center expansion with a proposed retail building and fast food restaurant with a drive-thru
- Number of Stories: 1
- Building Height (feet): 22 (maximum)
- Square Feet: 5,366 (existing tavern building)/6,000 (proposed retail building)/1,990 (restaurant building for fast food with a drive-thru)
- Parking Required/Provided: 98/99

**History & Request**

In 2014, UC-0563-14 was approved with plans that depicted a retail building along the west portion of the site, a tavern on the northeast corner, and a future pad site with a drive-thru on the southeast corner. During the public hearing process for UC-0563-14, concerns were brought forward by neighbors about the proposed drive-thru lane located on the future pad site. The Board of County Commissioners approved the application with the condition that the drive-thru lane be removed. Furthermore, WS-18-0794 was approved for modifications to the approved

retail center, which includes a drive-thru service in conjunction with a fast food restaurant building on the southeast corner was approved. A companion item to WS-18-0794 was WC-18-400224 (UC-0563-14) and this waiver of conditions was approved to remove the drive-thru lane for Future Pad #1 (southeast corner). The Notice of Final Action (NOFA) for WS-18-0794 stated that approval of this application was contingent upon approval of WC-18-400224 (UC-0563-14); however, both applications expired. Today, the applicant is proposing the same design that was previously approved with WS-18-0794.

### Site Plan

The plan depicts access to the site via 1 existing commercial driveway along the east property line adjacent to Fort Apache Road. There is an existing tavern (PT's) located on the northeast corner of the site. The applicant is proposing a 6,000 square foot in-line retail building on the west half of the site. The proposed fast food restaurant building is located on the southeast corner of the site, and the proposed drive-thru lane is south of the fast food restaurant building, along the south property line. Existing parking is located on the northwest corner of the site, and in the middle of the commercial center adjacent to the 3 buildings.

### Landscaping

The plan depicts existing and proposed landscaping. The north property line includes existing shrubs and trees adjacent to an existing 4 foot high CMU block wall. There is an existing 10 foot wide landscape buffer with existing Evergreen trees along the west property line. However, the plan shows that the applicant will upgrade this landscape buffer with a double row of 24 inch box trees, and the existing 10 foot high CMU block wall will remain. The applicant is proposing a 6 foot wide landscape strip along the south property line with 1 row of 24 inch box trees spaced every 20 feet. In addition, there is an existing 8 foot high CMU block wall along the south property line. The 18 foot wide landscape strip on the southeast corner of the site will include new trees and shrubs to finally complete the street landscaping adjacent to Fort Apache Road.

### Elevations

Both the proposed fast food restaurant building and the retail building have an overall height of 22 feet and are 1 story. The buildings have flat roofs behind parapet walls and the exterior of the buildings have a combination of a light sand plaster finish and stone veneer. Horizontal decorative V-grooves will be added to the exterior walls.

### Floor Plan

The proposed retail center will have a total area of 13,356 square feet; the existing tavern has an area of 5,366 square feet. The in-line retail building has an area of 6,000 square feet and the restaurant has an area of 1,990 square feet consisting of dining area, kitchen, office, and restrooms.

### Previous Conditions of Approval

Listed below are the approved conditions for WC-18-400224 (UC-0563-14):

### Current Planning

- Applicant is advised that 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.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that the CCWRD is unable to verify sewer capacity based on this zoning application; to find instruction for submitting a Point of Connection (POC) request on the CCWRD website; and that a CCWRD approved POC must be included when submitting civil improvement plans.

Listed below are the approved conditions for WS-18-0794:

Current Planning

- Approval of portions of this request are contingent upon approval of WC-18-400224 (UC-0563-14);
- Design review as a public hearing for lighting and signage.
- Applicant is advised that 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

- Traffic study and compliance;
- Compliance with the approved drainage study, or submit a new drainage study.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that CCWRD is unable to verify sewer capacity based on this zoning application; to find instruction for submitting a Point of Connection (POC) request on the CCWRD website; and that a CCWRD approved POC must be included when submitting civil improvement plans.

Listed below are the approved conditions for DR-0595-16 with WC-18-400224 (UC-0563-14):

Current Planning

- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that 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

- Drainage study and compliance;
- Traffic study and compliance;
- Full off-site improvements;
- Right-of-way dedication to include right turn lane on Fort Apache Road.

Listed below are the approved conditions for UC-0563-14:

#### Current Planning

- Retail center to be single story only;
- Landscaping per revised plans on file with intense landscaping pursuant to Title 30 to be provided on westernmost property line;
- Delivery times along the westernmost drive aisle of in-line shops will be limited to 10:00 a.m. to 3:00 p.m., Monday to Saturday, no deliveries on Sunday;
- Hours of operation for in-line shops limited to 5:00 a.m. to 10:00 p.m.;
- Right turn only onto Fort Apache Road;
- Remove the proposed drive-thru as shown on Future Pad #1;
- Separate design review as a public hearing for signage;
- Work with property owner to the north and if it can be coordinated, provide cross access and record perpetual cross access, ingress/egress, and parking agreement;
- Additional architectural detailing and stone veneer on the south elevation of tavern pad site;
- Design review for future pad site;
- Lighting along west portions of the development to be low level with any light source to be shielded with “full cut-off” fixtures (light lens not visible), floodlights, spotlights, or other similar lighting shall not be permitted to illuminate buildings;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that any change in circumstances or regulations may be justification for the denial of an extension of time; approval of this application does not constitute or imply approval of a liquor or gaming license or any other County issued permit, license, or approval; and that this application must commence within 2 years of approval date or it will expire.

#### Public Works – Development Review

- Drainage study and compliance;
- Traffic study and compliance;
- Full off-site improvements;
- Right-of-way dedication to include additional right-of-way for right turn lane into the development;
- Detached sidewalk will require dedication to back of curb and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control which may require a vacation of excess right-of-way or execute a license and maintenance agreement for non-standard improvements in the right-of-way.

#### Building/Fire Prevention

- Applicant is advised that fire/emergency access must comply with the Fire Code as amended; fire protection may be required for this facility and please contact Fire Prevention for further information at (702) 455-7316.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that existing sewer is located within 400 feet of the parcel; and that at the time of development, CCWRD requires submittal of civil improvement plans and estimated wastewater flow rates to determine sewer point of connection.

Signage

Signage is not a part of this request.

Applicant's Justification

Per the applicant's justification letter, this waiver of conditions was previously approved WC-18-400224 (UC-0563-14), but the application expired along with its companion item WS-18-0794. The applicant is proposing the same exact design that was previously approved.

**Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
WS-18-0794	Retail center to include a retail building to the west, maintain existing tavern to the northeast pad site, and proposed fast food restaurant building on the southeast corner pad site with a proposed drive-thru lane, waivers include reduced height setback ratio, alternative landscaping, and a design review for alternative parking lot landscaping and for the entire retail center - expired	Approved by BCC	February 2019
WC-18-400224 (UC-0563-14)	Waiver of conditions of a use permit to remove the proposed drive-thru as shown on future Pad #1 - expired	Approved by BCC	February 2019
TM-0109-17	Commercial subdivision	Approved by PC	August 2017
UC-0563-14 (ET-0182-16)	First extension of time for a retail center with a tavern including reduced parking, setback for a trash enclosure, and landscaping	Approved by BCC	February 2017
TM-0109-17	Commercial subdivision	Approved by PC	August 2017
UC-0563-14 (ET-0182-16)	First extension of time for a retail center with a tavern including reduced parking, setback for a trash enclosure, and landscaping	Approved by BCC	February 2017
DR-0595-16	Modifications to an approved tavern (northeast corner) and a waiver of conditions of UC-0563-14 requiring landscaping per revised plans on file with intense landscaping on the westernmost property line	Approved by BCC	October 2016
UC-0563-14	Retail center with a proposed tavern (southeast corner) including reduced parking, setback for a trash enclosure, and landscaping	Approved by BCC	December 2014

**Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
UC-0578-07 (ET-0166-08)	Extension of time to commence the reduction in separation between an on-premises consumption of alcohol establishment (tavern) and a residential development on a separate property this includes a design review for a tavern	Approved by BCC	August 2008
WS-1757-06 (ET-0165-08)	First extension of time to commence waivers related to landscaping and reduced trash enclosure setback and design review for a retail center	Approved by BCC	August 2008
UC-0578-07	Reduced the separation between an on-premises consumption of alcohol establishment (tavern) and residential development - expired	Approved by BCC	July 2007
WS-1757-06	Reduced landscaping requirements and reduced setback for a trash enclosure for a proposed retail center - expired	Approved by BCC	February 2007
ZC-1276-04	Reclassified this site and 2 other parcels to C-2 zoning for future commercial development	Approved by BCC	September 2004

**Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	Corridor Mixed-Use	C-2	Convenience store with gasoline sales, vehicle wash, & fast food restaurant with drive-thru service
South, East, & West	Mid-Intensity Suburban Neighborhood (up to 8 du/ac) & Major Development Project (Rhodes Ranch)	R-2	Single family residential

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

**Related Applications**

<b>Application Number</b>	<b>Request</b>
WS-23-0203	A waiver of development standards and a design review for a commercial center is a companion item on this agenda.

**STANDARDS FOR APPROVAL:**

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

## **Analysis**

### **Comprehensive Planning**

Title 30 standards of approval on an extension of time application state that such an application may be denied or have additional conditions imposed if it is found that circumstances have substantially changed. A substantial change may include, without limitation, a change to the subject property, a change in the areas surrounding the subject property, or a change in the laws or policies affecting the subject property. Using the criteria set forth in Title 30, no substantial changes have occurred at the subject site since the original approval.

Staff finds that the applicant's request is appropriate since a fast food restaurant building on this site mirrors the same drive-thru lane for a fast food restaurant building to the north (C-2 zoned commercial center with a Jack-in-the-Box). The proposed fast food restaurant building on the subject parcel will be buffered by the proposed retail building to the west, and a 10 foot wide intense landscape buffer along the west property line. Currently, the northern commercial center includes a convenience store, gasoline station, fast food restaurant, and car wash and these businesses are also adjacent to the same residential development to the west. The on-site traffic and circulation of the development to the north is more intense than the applicant's site, in addition, the same waiver of conditions was previously approved in 2019. Staff can support this request.

### **Staff Recommendation**

Approval.

Approval of the waiver of conditions request constitutes a finding by the Commission/Board that the conditions will no longer fulfill its intended purpose.

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:**

### **Public Works - Development Review**

- No comment.

### **Fire Prevention Bureau**

- No comment.

### **Clark County Water Reclamation District (CCWRD)**

- Applicant is advised that a Point of Connection (POC) request has been completed for this project; to email [sewerlocation@cleanwaterteam.com](mailto:sewerlocation@cleanwaterteam.com) and reference POC Tracking #0153-2023 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:** Enterprise - approval.

**APPROVALS:**

**PROTEST:**

**APPLICANT:** ACTIVE COMMERCIAL, LLC

**CONTACT:** DIONICIO GORDILLO, 204 BELLE ISLE CT. HENDERSON, NV 89012