

12/04/24 BCC AGENDA SHEET

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**UC-24-0555-KELEGIAN, SHELLY:**

**USE PERMIT** for outdoor dining.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** modify residential adjacency standards; **2)** reduce buffering requirements; and **3)** alternative driveway geometrics.

**DESIGN REVIEW** for restaurants with drive-thrus on 1.21 acres in a CG (Commercial General) Zone.

Generally located on the south side of Blue Diamond Road and the west side of Cameron Street within Enterprise. JJ/mh/kh (For possible action)

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RELATED INFORMATION:

**APN:**

177-18-303-022; 177-18-303-041

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. a. Reduce the separation of a drive-thru lane on the east parcel to a residential property to 66 feet where a minimum of 200 feet is required per Section 30.04.06E (a 67% reduction).
- b. Reduce the separation of a drive-thru lane on the west parcel to a residential property to 39 feet where a minimum of 200 feet is required per Section 30.04.06E (an 81% reduction).
2. Reduce the height of a buffer wall to 6 feet where an 8 foot high decorative screen wall is required per Section 30.04.02C (a 25% reduction).
3. Reduce the minimum departure distance for a driveway (along Cameron Street) to 131 feet where 190 feet is the standard per Uniform Standard Drawing 222.1 (a 45% reduction).

**DESIGN REVIEW:**

1. a. Restaurant with a drive-thru on east parcel (APN 177-18-303-041).
- b. Restaurant with a drive-thru on west parcel (APN 177-18-303-022).

**LAND USE PLAN:**

ENTERPRISE - CORRIDOR MIXED-USE

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: 4671 Blue Diamond Road
- Site Acreage: 1.21

- Project Type: Drive-thru restaurants
- Number of Stories: 1
- Building Height (feet): 20 (Restaurant 1)/28.5 (Restaurant 2)
- Square Feet: 1,500 (Restaurant 1)/900 (Restaurant 2)
- Parking Required/Provided: 17/17
- Sustainability Required/Provided: 7/7.5

### Site Plans & History

The plans depict a 1.21 acre commercial site on the south side of Blue Diamond Road and the west side of Cameron Street. The site is currently divided into 2 lots, with a proposed tentative map (TM-24-500121) to combine the lots being a related item on this agenda. In June 2018, the west parcel was approved for a zone change from H-2 to C-1 zoning, along with a design review for an 1,800 square foot restaurant and a waiver of development standards for reduced landscaping along Blue Diamond Road. However, the design review and waiver of development standards portions of this application have expired. In February 2021, the west parcel was approved for a drive-thru restaurant with signage and lighting, though this application has also since expired.

The proposed development features 2 drive-thru restaurants. Restaurant 1 is 1,500 square feet and located in the northeast corner of the site (APN: 177-18-303-041), set back 127 feet from the south property line. The drive-thru begins along Cameron Street and is set back 66 feet, 7 inches from the residential property to the south and oriented north, wrapping around the building with the drive-thru exiting into the parking area. The drive-thru begins with 2 lanes that merge into a single lane after the talk box. The restaurant accommodates drive-thru and in-store customers. Restaurant 2 is 900 square feet and located on the western portion of the site (APN 177-18-303-022) and is set back 66 feet, 8 inches from the south property line, with a 250 square foot patio area for outdoor dining that is set back 63 feet, 6 inches from the south property line. The outdoor dining area is enclosed by a decorative block screen wall. The restaurant accommodates drive-thru and walk-up customers. The single lane drive-thru begins along the south side of the site, 39 feet, 6 inches from the residential properties to the south, and is oriented north, wrapping around the building with the drive-thru exiting into the drive aisle along the south of the site.

A loading zone is located along the south side of the site, set back 39 feet, 6 inches from the residential properties to the south along with 2 trash enclosures which are set back 50 feet and 64 feet from the residential properties to the south. A 3 foot high decorative screen wall is depicted along the side of both drive-thru areas, partially screening them from Blue Diamond Road. An existing 6 foot high CMU wall is located along the south property line of the site, which is proposed to remain. The southern portion of the site also features a 10 foot wide patent easement. There are 2 driveways proposed: a 32 foot wide driveway along Blue Diamond Road in the southwest corner of the site, and a 35 foot wide driveway along Cameron Street in the southeast corner of the site. Parking is provided in front of both restaurants, with 17 total parking spaces required and provided.

### Landscaping

The plans depict street landscaping along Blue Diamond Road along the north of the site, and features a landscape area that ranges in width between 7 feet, 2 inches and 10 feet, 2 inches.

Large trees, spaced 30 feet apart on center, with shrubs are provided along the inside of the existing attached sidewalk along Blue Diamond Road. A 15 foot wide landscape area with a detached sidewalk included is provided along Cameron Street along the east of the site, which also includes large trees and shrubs. The south portion of the site features a 17 foot, 6 inch wide landscape area with a double row of large evergreen trees spaced 20 feet apart on center. Trees and shrubs are also provided throughout the parking area, with 2 of the landscape finger islands, which are located at the entry of the drive-thru of Restaurant 1, being narrower than the 6 foot wide requirement in Title 30.

### Elevations

The plans depict 2 drive-thru restaurants. Restaurant 1 is 20 feet high at the peak, featuring an anodized aluminum storefront and drive-thru window, rustwall panels, composite cladding, a smooth stucco finish, and a sloping roof. The building colors include beige, tan, and brown. Restaurant 2 is 28 feet, 6 inches high at the peak, featuring decorative metal and wood for the base of the building, along with a flat roof. Decorative metal roof overhangs with steel overhang supports provide cover on 2 sides of the building, which are for vehicles in the drive-thru and pedestrians ordering from the walk-up menu board. The building colors include white, orange, blue, green, and grey.

### Floor Plans

The plans depict 2 drive-thru restaurants, with Restaurant 1 being 1,500 square feet with an open layout. The storefront doors for customers entering the restaurant are located in the front of the building, with the drive-thru window located on the rear side of the building, and an additional door on the side of the building. Restaurant 2 is 900 square feet with a walk-up ordering area in the front and drive-thru window on the rear side of the building. The restaurant includes a wash/preparation area, restroom, and storage area.

### Lighting

The applicant has provided a lighting plan in order to comply with the provisions of the original zone change for the site (ZC-18-0174), which required a design review for lighting and signage with signage being deferred until later. The proposed lighting plan depicts a total of 9 light poles that are each 18 feet in height, located throughout the site, providing light for the drive-thrus and parking areas. The photometric plan shows that there will be no light spillage into the residential properties to the south and minimal light spillage into the surrounding streets.

### Applicant's Justification

The applicant states that the path of travel for the drive-thru lanes is directed away from the adjacent residential uses, which will help with noise reduction. The double row of large trees and existing CMU wall will also help with screening the loading zone from the residential properties. The request to maintain the 6 foot high CMU wall is necessary because adding an additional screen wall would create a space where trash and other items could be thrown. An additional parking lot tree has been provided to mitigate the reduction in the width of the landscape finger islands. The reduction in departure distance is also necessary because of the width of the site along Cameron Street, which would force the driveway to be placed outside of the property line. Lastly, the applicant adds that these restaurants will create employment opportunities for the community.

**Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
VS-22-0326	Vacated and abandoned easements of interest to Clark County	Approved by PC	July 2022
DR-20-0601	Restaurant with drive-thru service, signage, lighting, and finished grade - expired	Approved by BCC	February 2021
UC-19-0590	Vehicle maintenance facility, waivers for setbacks, separation from a residential use, building height, trash enclosure setback, parking, and alternative landscaping, and design reviews for alternative parking lot landscaping and a vehicle maintenance facility	Withdrawn	September 2019
ZC-18-0174	Reclassified from H-2 to C-2 zoning with waiver for alternative landscaping, and design review for a restaurant - design review and waiver - expired	Approved by BCC	June 2018

**Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District (Overlay)</b>	<b>Existing Land Use</b>
North	Compact Neighborhood (up to 18 du/ac) & Corridor Mixed-Use	H-2 & CG	Vehicle wash, shooting range, & shopping center
South	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	RS3.3	Single-family residential
East & West	Corridor Mixed-Use	CG	Shopping center

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

**Related Applications**

<b>Application Number</b>	<b>Request</b>
ZC-24-0554	A zone change from H-2 to CG zoning is a companion item on this agenda.
VS-24-0556	A vacation and abandonment of a portion of a right-of-way being Cameron Street is a companion item on this agenda.
TM-24-500121	A tentative map for a 1 lot commercial subdivision is a companion item on this agenda.

**STANDARDS FOR APPROVAL:**

The applicant shall demonstrate that the proposed request is consistent with the Master Plan and is in compliance with Title 30.

## **Analysis**

### **Comprehensive Planning**

#### Use Permit

A special use permit is considered on a case by case basis in consideration of the standards for approval. Additionally, the use shall not result in a substantial or undue adverse effect on adjacent properties, character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare; and will be adequately served by public improvements, facilities, and services, and will not impose an undue burden.

The applicant is requesting to reduce the distance between the outdoor dining area and residential properties to the south to 63 feet where 200 feet is required per Title 30. Staff finds that the decorative block wall enclosing the outdoor dining area will help mitigate the impact of the use, which will already be minimal since the patio area is only 250 square feet. Staff finds that the drive aisle along the south side of the site, along with the buffering and screening provided, will ensure that the residences to the south are minimally impacted by the outdoor dining. Therefore, staff can support this request.

#### Waivers of Development Standards

The applicant shall have the burden of proof to establish that the proposed request is appropriate for its proposed location by showing the following: 1) the use(s) of the area adjacent to the subject property will not be affected in a substantially adverse manner; 2) the proposal will not materially affect the health and safety of persons residing in, working in, or visiting the immediate vicinity, and will not be materially detrimental to the public welfare; and 3) the proposal will be adequately served by, and will not create an undue burden on, any public improvements, facilities, or services.

#### Design Review

Development of the subject property is reviewed to determine if 1) it is compatible with adjacent development and is harmonious and compatible with development in the area; 2) the elevations, design characteristics and others architectural and aesthetic features are not unsightly or undesirable in appearance; and 3) site access and circulation do not negatively impact adjacent roadways or neighborhood traffic.

#### Waiver of Development Standards #1a & Design Review #1a

Overall, staff finds that the proposed commercial development would provide new dining and employment opportunities for the area and will be compatible with the existing development in the surrounding area. Staff appreciates that the proposed orientation of the drive-thru is directed away from the residential use and is intended to reduce impacts as much as possible. The applicant is also requesting to reduce the width of the landscape finger island located at the entry of the drive-thru for Restaurant 1. Staff finds that the applicant is proposing a generous amount of landscaping for the overall site, particularly in the parking lot where an additional tree is being provided. The additional tree and the locations of the trees around the parking lot and drive-thru lane will provide a mitigating benefit of shade that will minimize the urban heat island effect. Staff can support the design of Restaurant 1 and the drive-thru location since its impact will be mitigated by the driveway, drive aisle, landscape buffer, and CMU wall that are located between

the drive-thru entry and the adjacent residences to the south. Therefore, staff can support these requests.

#### Waiver of Development Standards #1b & Design Review #1b

While staff has no objection to the location of Restaurant 2 or the outdoor dining area, staff is concerned about the adverse effects the drive-thru may have on the residences to the south due to the vehicular circulation along the southern portion of the site. Staff understands that a 17 foot wide landscape area and 6 foot high CMU wall may help buffer the drive-thru, but given the constraints of the site and the proximity of the existing residences, staff finds that this site may not be suitable for multiple drive-thrus. For these reasons, staff is unable to support these requests, particularly because the site being developed is raw land and could be designed to meet Title 30 requirements or provide more mitigating measures.

#### Waiver of Development Standards #2

Staff finds that the purpose of buffering and screening is to provide a physical and natural barrier between uses of differing intensity to ultimately reduce the impact that higher intensity uses could impose on lower intensity uses, such as noise, light, and building massing. The proposed 17 foot wide landscape area along the southern portion of the site meets the landscape buffer requirements of Title 30, though the 6 foot high CMU wall does not meet requirement for an 8 foot high decorative screen wall. While staff can understand the applicant's desire to maintain the existing CMU wall, the proximity of the drive-thru lanes to the adjacent residences further illustrates the need for adequate buffering and screening to minimize the impact of the proposed uses. Therefore, staff cannot support this request.

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

##### Waiver of Development Standards #3

Staff has no objection to the reduction in the departure distance for the Cameron Street commercial driveway. Although the departure distance does not comply with minimum standards, staff finds the location allows vehicles to safely access the site.

#### **Department of Aviation**

The development will penetrate the 100:1 notification airspace surface for Harry Reid International Airport. Therefore, as required by 14 CFR Part 77, and Section 30.02.26B.3(ii) of the Clark County Unified Development Code, the Federal Aviation Administration (FAA) must be notified of the proposed construction or alteration.

#### **Staff Recommendation**

Approval of the use permit, waivers of development standards #1a and #3, and design review #1a; denial of waivers of development standards #1b and #2, and design review #1b.

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**

If approved:

- Enter into a standard development agreement prior to any permits or subdivision mapping for the portion of the site currently being developed, 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 approval of a Certificate of Compliance.
- Applicant is advised within 4 years from the approval date the application must commence or the application will expire unless extended with approval of an extension of time; 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; changes to the approved project will require a new land use application; and the applicant is solely responsible for ensuring compliance with all conditions and deadlines.

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

- Drainage study and compliance;
- Traffic study and compliance;
- Full off-site improvements;
- Right-of-way dedication to include spandrel at the intersection of Blue Diamond Road and Cameron Street;
- The installation of detached sidewalks will require the vacation of excess right-of-way and granting necessary easements for utilities, pedestrian access, streetlights, and traffic control devices.

### **Department of Aviation**

- Applicant is required to file a valid FAA Form 7460-1, "Notice of Proposed Construction or Alteration" with the FAA, in accordance with 14 CFR Part 77, or submit to the Director of Aviation a "Property Owner's Shielding Determination Statement" and request written concurrence from the Department of Aviation;
- If applicant does not obtain written concurrence to a "Property Owner's Shielding Determination Statement," then applicant must also receive either a Permit from the Director of Aviation or a Variance from the Airport Hazard Areas Board of Adjustment (AHABA) prior to construction as required by Section 30.02.26B of the Clark County Unified Development Code; applicant is advised that many factors may be considered before the issuance of a permit or variance, including, but not limited to, lighting, glare, graphics, etc.;
- No building permits should be issued until applicant provides evidence that a "Determination of No Hazard to Air Navigation" has been issued by the FAA or a "Property Owner's Shielding Determination Statement" has been issued by the Department of Aviation.

- Applicant is advised that the FAA's determination is advisory in nature and does not guarantee that a Director's Permit or an AHABA Variance will be approved; that FAA's airspace determinations (the outcome of filing the FAA Form 7460-1) are dependent on petitions by any interested party and the height that will not present a hazard as determined by the FAA may change based on these comments; and that the FAA's airspace determinations include expiration dates and that separate airspace determinations will be needed for construction cranes or other temporary equipment.

**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 and reference POC Tracking #0459-2024 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

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

**APPROVALS:**

**PROTESTS:**

**APPLICANT:** MARK KELEGIAN

**CONTACT:** SCA DESIGN, 2525 W. HORIZON RIDGE PARKWAY, SUITE 230,  
HENDERSON, NV 89052