

RESTAURANT  
(TITLE 30)

BLUE DIAMOND RD/SCHIRLLS ST

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**WS-22-0289-BLUE DIAMOND PB HOLDINGS, LLC:**

**WAIVER OF DEVELOPMENT STANDARDS** to reduce the setback.

**DESIGN REVIEWS** for the following: **1)** a restaurant with a drive-thru; and **2)** finished grade on 0.9 acres in a C-2 (General Commercial) (AE-60) Zone.

Generally located on the south side of Blue Diamond Road and the west side of Schirlls Street (alignment) within Enterprise. JJ/jor/jo (For possible action)

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RELATED INFORMATION:

**APN:**

177-18-602-007

**WAIVER OF DEVELOPMENT STANDARDS:**

Reduce the side street setback to 6 feet 8 inches where 10 feet is required per Table 30.40-4 (a 33% decrease).

**DESIGN REVIEWS:**

1. For a proposed restaurant with a drive-thru.
2. Increase finished grade to 48 inches where a maximum of 36 inches is the standard per Section 30.32.040 (a 33% increase).

**LAND USE PLAN:**

ENTERPRISE - ENTERTAINMENT MIXED-USE

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: None
- Site Acreage: 0.9
- Project Type: Restaurant with a drive-thru (Pink Box Donuts)
- Number of Stories: 1
- Building Height (feet): 37
- Square Feet: 1,900 (restaurant building with a drive-thru)
- Parking Required/Provided: 19/27

### History & Site Plan

ZC-18-0961 reclassified the subject parcel from H-2 zoning to C-2 zoning for a commercial development which includes restaurant buildings with a drive-thru. The applicant also submitted a vacation and abandonment application (VS-18-0962) as a companion item to the zone change to vacate Schirlls Street; however, the applicant will no longer complete the vacation and abandonment. Schirlls Street will serve as the main point of access to the proposed development (Pink Box Donuts).

The site plan depicts a proposed restaurant on the northern portion of the parcel. The proposed restaurant is set back 29 feet from the north property line (adjacent to Blue Diamond Road), 6 feet 8 inches from the east property line (adjacent to Schirlls Street), 65 feet from the west property line, and 198 feet from the south property line. Twenty-seven parking spaces are located on the west and south sides of the proposed restaurant building. Additional parking is also located along the south property line. The proposed drive-thru is located north of the main driveway entrance adjacent to Schirlls Street. Customers utilizing the drive-thru will enter the double drive-thru on the south side of the building and vehicles will then merge into 1 lane and will head north along the east side of the restaurant building to order and pick-up food. To exit, vehicles will head west on the north side of the building. The site plan also depicts 2 future cross access points along the west property line.

The applicant is requesting to reduce the side street setback to 6 feet 8 inches where 10 feet is required per Code. Per the site plan, the drive-thru area includes a donut arch feature which is a part of the east facing elevation of the main restaurant building. The site plan shows that the eastern base of the donut arch feature is set back 6 feet 8 inches from Schirlls Street. Vehicles pass through the donut arch feature right before the customer arrives at the pick-up window. In addition, a design review request is needed to increase the proposed finished grade to 48 inches where 36 inches is the maximum allowed per Title 30. The submitted cross sections show that the existing grade is approximately 3 feet to 4 feet lower than the existing grade along Blue Diamond Road. The increase finished grade is primarily located at the center of the subject parcel.

### Landscaping

The submitted landscape plan shows a 5 foot 6 inch wide landscape strip along the west property line with trees spaced every 30 feet and shrubs and groundcover in between the trees. The north property line is adjacent to Blue Diamond Road, and the applicant is providing 15 feet of landscaping adjacent to an attached sidewalk as required per Title 30. An abundance of landscaping is also located on the northeast corner and along the east property line (adjacent to Schirlls Street). The applicant also included the required landscape finger islands throughout the parking lot.

### Elevations

The restaurant building has an overall height of 36 feet 8 inches. The design of the building is parallel to the restaurant theme, and includes a primary color palette of pink and white. Exterior materials include stucco exterior walls, sand finish stucco, metal decking panels, and aluminum store front and window systems.

### Floor Plan

The floor plan shows that the restaurant has an overall area of 1,900 square feet. The plans show the sales area, back of house areas, kitchen, storage area, and restrooms.

### Signage

Signage is not a part of this request.

### Applicant's Justification

Per the applicant's justification letter, the request to increase the finished grade to 48 inches is in order to flood protect the proposed restaurant building. The site currently slopes from east to west and from north to south. In order to meet the 2D flood criterion of setting the finished floor of the building 18 inches above the top of curb elevation at the adjacent street, it is necessary to set the finished floor of the building at 2,333.25 feet. The existing on-site elevations of this site where the building will be constructed range from 2,329.30 feet to 2,329.82 feet. Therefore, it is necessary to raise the grade of the site a maximum of 4 feet. The overall design of the pad subject parcel includes ample parking, low maintenance landscaping, illuminated parking areas with shielded down-light posts, and architectural design that is in-line with the applicant's business model. The applicant is also requesting to reduce the building setback of the east facing building elevation to accommodate a "drive-thru donut." The plans show a setback of 6 feet 8 inches where 10 feet is required. The request is mitigated since the remainder of the building is set back over 10 feet from the right-of-way (Schirlls Street).

### **Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
ET-21-400025 (VS-18-0962)	First extension of time to vacate Schirlls Street	Approved by BCC	April 2021
ET-21-400024 (ZC-18-0961)	First extension of time for a restaurant building with a drive-thru, where the site was reclassified from H-2 to C-2 zoning	Approved by BCC	April 2021
ADR-19-900822	Redesigned commercial development	Approved by ZA	December 2019
ZC-18-0961	Reclassified site from H-2 to C-2 zoning for a commercial development	Approved by BCC	February 2019
VS-18-0962	Vacated and abandoned 30 feet of Schirlls Street	Approved by BCC	February 2019
SC-1717-98	Renamed an existing north and south street alignment from Schirlls Street, Schirlls Avenue, Vista Street to Schirlls Street	Approved by BCC	December 1998

### **Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	Corridor Mixed-Use	C-2	Shopping center
South, East, & West	Entertainment Mixed-Use	H-2 & R-E	Undeveloped

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

## **STANDARDS FOR APPROVAL:**

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

### **Analysis**

#### **Current Planning**

##### Waiver 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.

Staff does not typically support side street setback reductions especially when the site has not been developed, and the applicant has the opportunity to make adjustments to meet required setbacks. Title 30 requires a 10 foot setback of any structures adjacent to a street, and the applicant is proposing a reduced setback of 6 feet 8 inches for a proposed drive-thru donut feature on the east facing elevation of the proposed restaurant building. Staff finds that the proposed donut is visually and physically buffered adequately via landscaping and an attached sidewalk from the right-of-way and is not located anywhere near a sight visibility zone. Furthermore, the majority of the building is set back at minimum of 33 feet from Schirlls Street, and the donut feature is the only portion of the building which requires a setback reduction. Staff has no objection to this request.

##### Design Review #1

The proposed design is aesthetically pleasing and should add a visual architectural enhancement along the existing street frontage of Blue Diamond Road. Staff finds that the overall design of the site shows the required cross access, pedestrian walkways, a loading zone, trash enclosure, bicycle parking, ample vehicular parking, and proper on-site circulation. Staff supports the design review for this establishment.

#### **Public Works – Development Review**

##### Design Review #2

This design review represents the maximum grade difference within the boundary of this application. This information is based on preliminary data to set the worst case scenario. Staff will continue to evaluate the site through the technical studies required for this application. Approval of this application will not prevent staff from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approval.

#### **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 30.48.120 of the Clark County Unified Development Code, the Federal Aviation Administration (FAA) must be notified of the proposed construction or alteration.

## **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:**

### **Current Planning**

- Expunge the design review portion of ZC-18-0961;
- 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; the County is currently rewriting Title 30 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**

- Drainage study and compliance;
- Drainage study must demonstrate that the proposed grade elevation differences outside that allowed by Section 30.32.040(a)(9) are needed to mitigate drainage through the site;
- Traffic study and compliance;
- Full off-site improvements;
- Coordinate with Real Property Management and the Department of Aviation to dedicate Schirlls Street.
- Applicant is advised that approval of this application will not prevent Public Works from requiring an alternate design to meet Clark County Code, Title 30, or previous land use approvals; and that that Nevada Department of Transportation (NDOT) permits may be required.

### **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 30.48 Part B of the Clark County Unified Development Code;

- 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; 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](mailto:sewerlocation@cleanwaterteam.com) and reference POC Tracking #0185-2022 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC:**

**APPROVALS:**

**PROTESTS:**

**APPLICANT:** BLUE DIAMOND PB HOLDINGS, LLC

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