

RESTAURANT
(TITLE 30)

FLAMINGO RD/UNIVERSITY CENTER DR

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

UC-22-0637-CV FLAMINGO, LLC:

USE PERMIT to modify pedestrian realm.

WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** allow drive-thru talk boxes to face residential development; and **2)** reduce landscape buffer.

DESIGN REVIEW for a restaurant with a drive-thru on a portion of 2.5 acres in a C-2 (General Commercial) (AE-65) Zone within the Midtown Maryland Parkway District.

Generally located on the north side of Flamingo Road, approximately 183 feet east of University Center Drive within Paradise. TS/sd/syp (For possible action)

RELATED INFORMATION:

APN:

162-15-803-006 ptn

USE PERMIT:

Modify pedestrian realm requirements for the Midtown Maryland Parkway District where required per Section 30.48.1840.

WAIVERS OF DEVELOPMENT STANDARDS:

1. Allow drive-thru talk boxes to face residential where talk boxes shall be set back behind the building or faced to minimize noise per Table 30.56-2.
2. Waive required landscaping buffer adjacent to less intensive use where required per Figure 30.64-11.

LAND USE PLAN:

WINCHESTER/PARADISE - ENTERTAINMENT MIXED-USE

BACKGROUND:

Project Description

General Summary

- Site Address: N/A
- Site Acreage: 2.5 (portion)
- Project Type: Restaurant with drive-thru
- Building Height (feet): 23
- Square Feet: 924

- Parking Required/Provided: 8/8

Site Plans

The plans depict a proposed restaurant with drive-thru lanes on a portion of an existing commercial parcel. The plans show the proposed restaurant located in the center portion of the parcel and south of an existing multiple family residential development. The drive-thru will be located on the north side of the restaurant and will be adjacent to the north property line. Per Table 30.56-2, where drive-thru windows are adjacent to residential development, the talk boxes shall be set back behind the building or faced to minimize noise away from adjacent homes. The plans depict the talk boxes facing towards the existing residential uses to the north and requires a waiver of development standards to allow for their location. South of the drive-thru is a smaller partial circular drive aisle on the east side of the building where customers can pick-up online orders only. Outdoor seating is provided and counts towards open space requirements. Access to the property is from Flamingo Road with parking shown along the southern portion of the property, as well as on the east side of the building.

Landscaping

The plans depict landscaping throughout the interior of the parking lot and along the perimeter of the property. Although the pedestrian realm standards are not in compliance with the Midtown Maryland Parkway District, a 15 foot landscape area is shown along Flamingo Road adjacent to an existing attached sidewalk (total 20 foot width), rather than the required detached sidewalk. In addition, landscaping is provided along the rear (north) parcel line adjacent to less intensive use; however, the required number of trees are not provided in the landscape area.

Elevations

The plans depict a proposed commercial restaurant building with a drive-thru at 23 feet in height with a metal awning, metal frame, stucco finish, and storefront glazed windows. The colors proposed include orange and green and architectural enhancements with the rest of the building being white and gray colors.

Floor Plans

The plans depict a 924 square foot restaurant with kitchen, seating area, outdoor seating, dining and lounge, restrooms, and utility rooms. Outside dining is provided per the plans and is part of the required open space per the Midtown Maryland Parkway District.

Signage

Signage is not a part of this request.

Applicant's Justification

The applicant states that the waiver request will be mitigated with measures to limit the impacts of the order boxes facing towards residential uses. This includes adjustable volumes not to exceed normal conversation levels of 60 decibels to 70 decibels during normal business hours. In addition, the applicant states the order boxes are over 25 feet from the rear property line and farther to the edge of the residential units.

Prior Land Use Requests

Application Number	Request	Action	Date
DR-1065-99	Convenience store with gasoline sales	Approved by PC	September 1999
ZC-1472-97	Reclassified from an R-1 to a C-2 zoning for a retail center	Approved by BCC	February 1998

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Entertainment Mixed-Use	R-5	Multiple family residential
South	Public Use	P-F	UNLV
East	Public Use	C-2	Electric substation
West	Entertainment Mixed-Use	C-2	Convenience store

STANDARDS FOR APPROVAL:

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

Analysis

Current Planning

Use Permit

A use permit is a discretionary land use application that is considered on a case-by-case basis in consideration of Title 30 and the Master Plan. One of several criteria the applicant must establish is that the use is appropriate at the proposed location and demonstrate the use shall not result in a substantial or undue adverse effect on adjacent properties.

Staff can support the applicant's request to modify the required pedestrian realm as outlined under the requirement of the Midtown Maryland Parkway District. Along Flamingo Road in this section there are no detached sidewalks or space to create a pedestrian realm without major alterations to the street and site. To include this would break-up the consistency of the existing streetscape along this area. Per the plans submitted the applicant is providing for a 15 foot wide landscape area behind the existing attached sidewalk as mitigation measures. Due to constraints along Flamingo Road with existing conditions for this immediate area, staff could support this request; however, since staff does not support the waivers of development standards or design review, staff cannot support this request.

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

Staff finds the waiver request to place order talk boxes facing north may have an impact to the residential development to the north. A similar request (UC-22-0602) is scheduled to be heard by the Board of County Commissioners' on December 21, 2022 for a drive-thru to the east of the subject project, but on the same property. That project is directly in front of the existing residential development, while this project is directly in front of the parking garage. Although the talk box may have less of an impact than the project to the east, the noise from the talk box may still impact the neighbors. In addition, the applicant has requested a waiver for the landscaping along the north property line, which increases the possibility of a negative impact since there is no buffer between the talk box and residential development. For these reasons, staff cannot support this request.

Waiver of Development Standards #2

In relation to the waiver of development standards #1, any intense use that will be adjacent to existing residential use is required to provide a landscape buffer. The applicant has provided landscaping along this portion of the parcel yet does not meet the design as outlined under Figure 30.64-11. As mentioned above, the design for the drive-thru is directed more to the parking garage; however, there still may be an impact to nearby neighbors and the intent of Code has not been met by the applicant. Staff has concerns with potential impacts to the residents and the request represents a self-imposed hardship; therefore, staff cannot support this request.

Design Review

Review of the plans do not show proper placement of the proposed restaurant as the design shows the drive-thru talk boxes in a location that may have an impact to those residences to the north as mentioned above. In addition, the proposed landscape buffer as shown along the north parcel line does not provide for appropriate buffering through an intense landscaping that would provide for, or minimize noise impacts with the proposed drive-thru. Likewise, staff has concerns with the internal circulation due to the potential conflict between the proposed half circular "pick up" area with the drive-thru queuing; therefore, staff cannot support the design review.

Department of Aviation

The property lies within the AE-65 (65 - 70 DNL) noise contour for Harry Reid International Airport and is subject to continuing aircraft noise and over-flights. Future demand for air travel and airport operations is expected to increase significantly. Clark County intends to continue to upgrade Harry Reid International Airport facilities to meet future air traffic demand.

Staff Recommendation

Denial.

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

If approved:

- 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;
- Traffic study and compliance.

Department of Aviation

- Incorporate exterior to interior noise level reduction into the building construction as required by Code for use.
- Applicant is advised that the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations, which was constructed after October 1, 1998; and that funds will not be available in the future should the owners wish to have their buildings purchased or soundproofed.

Fire Prevention Bureau

- Provide a Fire Apparatus Access Road in accordance with Section 503 of the International Fire Code and Clark County Code Title 13, 13.04.090 Fire Service Features.

Clark County Water Reclamation District (CCWRD)

- No comment.

TAB/CAC: Paradise - approval.

APPROVALS:

PROTESTS:

APPLICANT: ATWELL, LLC

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