09/22/21 BCC AGENDA SHEET

UPDATE

RESTAURANT
(TITLE 30)

CLEVELAND AVE/NELLIS BLVD

PUBLIC HEARING
APP. NUMBER/OWNER/DESCRIPTION OF REQUEST
UC-21-0275-CHURCH FOURSQUARE GOSPEL INTL:

HOLDOVER USE PERMITS for the following: **1)** allow outside dining within 200 feet of residential uses; and **2)** to not provide pedestrian access around the perimeter of an outside dining area.
WAIVERS OF DEVELOPMENT STANDARDS for the following: **1)** alternative landscaping; **2)** alternative commercial driveway geometrics; **3)** reduce approach distance; **4)** reduce departure distance; and **5)** eliminate loading spaces.
DESIGN REVIEWS for the following: **1)** fast food restaurant with drive-thru service; and **2)** outside dining area in conjunction with a drive-thru restaurant on 0.8 acres in a C-1 (Local Business) Zone.

Generally located on the west side of Nellis Boulevard between Cleveland Avenue and Welter Avenue within Sunrise Manor. TS/bb/jo (For possible action)

RELATED INFORMATION:

APN:
161-05-810-114

USE PERMITS:
1. Allow outside dining with a 78 foot separation from a residential use where a 200 foot separation is required per Table 30.44-1 (a 61% reduction).
2. Allow an outside dining, drinking, and cooking area without pedestrian access around the perimeter, where 48 inch pedestrian access is required per Table 30.44-1.

WAIVERS OF DEVELOPMENT STANDARDS:
1. a. Alternative landscaping adjacent to a less intense use (western property line) where landscaping per Figure 30.64-11 is required.
   b. Allow 5 medium trees within the parking lot where 11 trees are required per Figure 30.64-14 (G) (a 44% reduction).
2. Reduce driveway throat depth to 12 feet where a minimum of 25 feet is required per Uniform Standard Drawing 222.1 (a 52% reduction).
3. Reduce the approach distance from a commercial driveway to a street intersection to 88 feet where a minimum of 150 feet is required per Uniform Standard Drawing 222.1 (a 41% reduction).

4. Reduce the departure distance from a street intersection to a commercial driveway to 77 feet where a minimum of 190 feet is required per Uniform Standard Drawing 222.1 (a 59% reduction).
5. Eliminate the number of loading spaces where 1 loading space is required per Section 30.60.070 (a 100% reduction).

DESIGN REVIEWS:
1. A commercial development consisting of a fast food restaurants with drive-thru service.
2. Outside dining in conjunction with a drive-thru restaurant.

LAND USE PLAN:
SUNRISE MANOR - COMMERCIAL NEIGHBORHOOD

BACKGROUND:
Project Description
General Summary
- Site Address: 4985 E. Cleveland Avenue
- Site Acreage: 0.8
- Project Type: Commercial development consisting of a restaurant with drive-thru service
- Number of Stories: 1
- Building Height (feet): 23
- Square Feet: 2,381
- Parking Required/Provided: 33/42

History & Site Plan
In January 2020, the Board of County Commissioners (BCC) approved the C-1 zoning for this property, for a retail building with a fast food restaurant and a drive-thru located on the north side of the building (ZC-19-0838). A waiver of development standards was approved to allow commercial access to the local streets, Cleveland Avenue and Welter Avenue; there is no access to Nellis Boulevard. The new single tenant proposed restaurant is replacing the previously approved retail building. It is located on the northeastern portion of the site with parking to the north, east, west and south of the building and will be set back approximately 75 feet from the west property line, which is adjacent to existing single family residences. The drive-thru service for the restaurant is located on the east side of the building with the queuing lane along the south side of the building and the pick-up windows on the east side. Outside dining is located to the north of the restaurant and is set back 78 feet from the residential development to the west. A pedestrian access is not located around the perimeter of the dining area; however, a railing is proposed between the dining area and drive aisle. The traffic circulation on the site includes a one-way drive starting at the south side of the building and moving north along the east side of the building. Two-way traffic is shown on the west and north sides of the building.

Landscaping
The landscape plan depicts a minimum 15 foot wide landscape area behind a detached sidewalk along Nellis Boulevard. The landscaping adjacent to the local roads meets Figure 30.64-13 requirements. The proposed landscaping adjacent to the residential use along the west property

line includes 38 (5 gallon) blue point juniper plants where 1 (24 inch) large tree is required every 20 feet. All but 6 parking spaces are located adjacent to perimeter landscaping areas; however the planting material, including palm trees, is not permitted in the parking lot landscaping and cannot be counted towards the required parking lot trees.

Elevations

The proposed building is 1 story with a maximum height of 23 feet. The building has a flat roof behind parapet walls and the exterior of the building has a 4 sided stucco finish with a stone veneer along the base.

Floor Plans

The floor plan depicts a seating area, kitchen, restrooms, cold storage, general storage, and office. The drive thru pickup window is located on the northeast corner of the building. The main pedestrian entrance is located on the northwest corner of the building.

Signage

Signage is not a part of this request.

Applicant's Justification

The applicant is proposing a freestanding fast food casual restaurant with a drive-thru and dine in service. The previously approved site plan and in-line retail buildings (ZC-19-0838) were not designed according to an engineered survey. The proposed design and site plan will not require increased finished grades and will require some waivers for access and landscaping. Loading and unloading will take place after hours and will not interfere with daily operations. The outside dining area will have 4 tables, no music, and no wait service. The site plan design requires access from local streets and not Nellis Boulevard. The local street access is located in the most reasonable places possible and are similar to other commercial developments in the area.

Prior Land Use Requests

Application Number	Request	Action	Date
ZC-19-0838	Reclassified 0.8 acres from R-1 to C-1 zoning, waivers for access, parking, landscaping, and driveway	Approved by BCC	January 2020
PA-19-700002	Requested to redesignate the land use category of the site from IL (Institutional) to CN (Commercial Neighborhood) in the Sunrise Manor Land Use Plan	Approved by BCC	May 2019
AR-18-400255 (UC-0733-15)	Second application for review for a place of worship with accessory food bank and food kitchen, waived development standards for reduced on-site parking and landscaping, allowed access to local street and trash enclosures requirements, with a design review for place of worship - expired	Approved by PC	February 2019

Prior Land Use Requests

Application Number	Request	Action	Date
UC-0733-15 (AR-0177-16)	First application for review for a place of worship with accessory food bank and food kitchen, waived development standards for reduced on-site parking and landscaping, allowed access to local street and trash enclosures requirements, with a design review for place of worship - expired	Approved by PC	February 2017
UC-0733-15	Place of worship on 1.7 acres (including the subject site) with accessory food bank and food kitchen, waived development standards for reduced on-site parking, required landscaping, allowed access to local street and trash enclosures requirements, with a design review for place of worship - expired	Approved by PC	December 2015

Surrounding Land Use

	Planned Land Use Category	Zoning District	Existing Land Use
North	Office Professional	R-1	Undeveloped
South	Residential Suburban (up to 8 du/ac) & Commercial Neighborhood	C-2 & R-1	Car wash & single family residential
East	General Commercial	C-2	Shopping center
West	Office Professional & Residential Suburban (up to 8 du/ac)	R-1 (RNP-III)	Single family residential

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

Analysis
Current Planning
Use Permits
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 Comprehensive 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.

While staff supports the landscaping shown on the plan between the outside dining and the drive aisle, the outside dining is located close to existing residential uses and will not be compatible with the surrounding area or in harmony with the residential uses. The outside dining will not provide the required pedestrian pathway around the seating area and will not have a clear path around all tables, making it difficult to access.

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.

Waivers of Development Standards #1a, #1b, & #5

The buffer adjacent to residential uses should include plant materials that are sized and spaced according to Title 30 in order to be effective. The proposed 5 gallon plants are not of adequate size to effectively buffer the commercial use from residential use. The removal of the required loading zone, even considering the promise to load and unload after hours, does not accommodate potential future uses that would not be able or willing to make the same promise. The site has adequate space to accommodate a dedicated loading and unloading zone. Urban Specific Policy 21 of the Comprehensive Master Plan encourages drive-thru facilities and stacking lanes, when contiguous to any public right-of-way, residential use, or pedestrian gathering area to be obscured from view by an intense landscape buffer. Urban Specific Policy 32 of the Comprehensive Master Plan encourages specific buffering between existing residential areas and more intense land use designations. Staff cannot support the proposed waivers.

Design Reviews

While the proposed fast food restaurant with drive-thru is a potentially appropriate use on this property, the proposed denial of the special uses and waivers does not make the design review approvable considering there is adequate space to meet Code requirements. The drive-thru exit, north parking spaces, one-way drive exit to the north, and northern two-way drive aisle cause too many conflicts along with departure conflicts. The previously approved drive-thru design (ZC-19-0838) was a superior design with a drive-thru only on the east and north sides of the building, and parking located on the remainder of the lot. That plan negated the need for both drive-thru and one-way access and conflict at the exit. The use of palm trees as shade trees does not provide adequate shade in the Southern Nevada climate and does not meet the intent of Title 30. The lack of adequate tree cover on the property in general does not meet the intent of the Growth Management Community Design Policy 4 of the Comprehensive Master Plan to condition development approval upon screening between visual incompatibilities. Staff cannot support the proposed design reviews.

Public Works - Development Review

Waiver of Development Standards #2

Staff finds that the reduction to the throat depth for the commercial driveway on Welter Avenue will cause conflicts with the drive-thru entrance resulting in vehicles stacking causing potential collisions in the right of way. Therefore, staff cannot support this request.

Waivers of Development Standards #3 & #4

Staff has no objection to the reduction in the approach and departure distances for the commercial driveways. The applicant placed the driveways as far west on Welter Avenue and Cleveland Avenue as the site frontage will allow. However, since Planning is recommending denial of the application, staff cannot support these waivers.

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 Comprehensive 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 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.
- Applicant is advised off-site improvement permits may be required.

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 #0080-2021 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

TAB/CAC: Sunrise Manor - denial.
APPROVALS: 4 cards
PROTESTS: 3 cards

COUNTY COMMISSION ACTION: July 21, 2021 – HELD – To 08/04/21 – per Commissioner Segerblom.

COUNTY COMMISSION ACTION: August 4, 2021 – HELD – To 08/18/21 – per the Board of County Commissioners.

COUNTY COMMISSION ACTION: August 18, 2021 – HELD – To 09/22/21 – per the applicant.

APPLICANT: H.C. KLOVER ARCHITECT
CONTACT: H.C. KLOVER ARCHITECT, 8813 PENROSE LANE, SUITE 400, LENEXA, KS 66205