

10/20/21 BCC AGENDA SHEET

RESTAURANT  
(TITLE 30)

CHARLESTON BLVD/MOJAVE RD

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**NZC-21-0383-AGCOM I, LLC:**

**ZONE CHANGE** to reclassify 0.5 acres from an R-2 (Medium Density Residential) Zone to a C-1 (Local Business) Zone.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** reduced parking; **2)** reduced landscaping; **3)** setbacks; **4)** reduced departure distance; **5)** alternative driveway geometrics; and **6)** driveway standards.

**DESIGN REVIEW** for a restaurant.

Generally located on the south side of Charleston Boulevard and the west side of Mojave Road within Sunrise Manor (description on file). TS/jvm/jo (For possible action)

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RELATED INFORMATION:

**APN:**

162-01-501-003

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Reduce parking to 27 spaces where 50 spaces are required per Table 30.60-1 (a 46% reduction).
2. Reduce landscaping behind an attached sidewalk on an arterial street to 5 feet where 15 feet is required per Section 30.64.030 (a 67% reduction).
3.
  - a. Reduce the setback to a street to 5 feet where the minimum allowed is 10 feet per Table 30.40-4 (a 50% reduction).
  - b. Reduce the rear setback to 5 feet where 10 feet is the minimum per Table 30.40-4 (a 50% reduction).
4. Reduce the departure distance to 89 feet where 190 feet is required per Uniform Standard Drawing 222.1 (a 53% reduction).
5. Reduce the throat depth to zero feet where 25 feet is required per Uniform Standard Drawing 222.1 (a 100% reduction).
6. Allow a commercial pan driveway where a commercial curb return driveway is required per Uniform Standard Drawing 225.

**LAND USE PLAN:**

SUNRISE MANOR - RESIDENTIAL HIGH (FROM 8 DU/AC TO 18 DU/AC)

## **BACKGROUND:**

### **Project Description**

#### **General Summary**

- Site Address: 2950 Charleston Boulevard
- Site Acreage: 0.5
- Project Type: Restaurant (ice cream)
- Number of Stories: 1
- Building Height (feet): 20
- Square Feet: 4,964
- Parking Required/Provided: 50/27

#### **Neighborhood Meeting Summary**

The applicant conducted a virtual neighborhood meeting on December 9, 2020 as required by the nonconforming amendment process, prior to formal filing of this application. All owners within 1,500 feet of the project were notified about the meeting. No neighbors were in attendance.

#### Site Plan

The submitted plan depicts a square 0.5 acre site located at the southwest corner of Charleston Boulevard and Mojave Road. Ingress/egress is proposed by 1 driveway from Mojave Road. The proposed restaurant is located in the northeast corner of the parcel with 27 parking spaces located to the west and south of the building. The trash enclosure is located at the southwest corner of the structure and located 50 feet from the residential property to the south. The proposed setbacks are as follows: 5 feet from the north property line; 10 feet from the east property line; 66 feet from the west property line; and 66 feet from the south property line.

#### Landscaping

Landscaping is provided in a 5 foot wide planter behind an attached sidewalk on Charleston Boulevard and a 10 foot wide planter along Mojave Road. In addition, 6 foot wide planters with trees 20 feet on center are provided on the west and south property lines. Landscaping is also provided in the parking areas.

#### Elevations

The submitted plans depict a 20 foot tall building with a flat roof behind parapet walls. The materials used include stucco walls with store front doors and windows.

#### Floor Plans

The plans depict restrooms, seating area, kitchen area, walk-in coolers and freezers, and an office.

#### Signage

Signage is not a part of this request.

#### Applicant's Justification

The applicant indicates that the proposed project will improve an economically depressed property, in addition, during the last 15 years the trend along Mojave Road has been from

residential to commercial. Also, approval should not negatively impact the surrounding area or subject property.

### **Prior Land Use Requests**

<b>Application Number</b>	<b>Request</b>	<b>Action</b>	<b>Date</b>
ET-18-400184 (NZC-0269-13)	Second extension of time to reclassify 0.5 acres from R-2 to C-1 zoning, with waivers for setbacks and landscape screening, and a design review for a commercial and retail development	Denied by BCC	October 2018
NZC-0269-13 (ET-0132-16)	First extension of time to reclassify 0.5 acres from R-2 to C-1 zoning, with waivers for setbacks and landscape screening, and a design review for a commercial and retail development	Approved by BCC	November 2016
WS-0972-14	Reduced landscaping, loading zone and reduced parking, with a waiver of conditions of a zone change and a design review for a restaurant	Approved by BCC	April 2015
NZC-0269-13	Reclassified 0.5 acres from R-2 to C-1 zoning with waivers for setbacks and landscaping screening with a design review for a commercial and retail development	Approved by BCC	September 2013

### **Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North	City of Las Vegas	M	Convenience store, retail building, & office park
South	Residential High (8 to 18 du/ac)	R-2	Single family residential
East	Residential High (8 to 18 du/ac) & Commercial Neighborhood	R-2 & C-1	Manufactured home park & undeveloped
West	City of Las Vegas	R-4	Multiple family residential

### **STANDARDS FOR APPROVAL:**

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

### **Analysis**

#### **Current Planning**

##### Zone Change

The applicant shall provide Compelling Justification that approval of the nonconforming zoning boundary amendment is appropriate. A Compelling Justification means the satisfaction of the following criteria as listed below:

- 1. A change in law, policies, trends, or facts after the adoption, readoption or amendment of the land use plan that have substantially changed the character or condition of the area, or the circumstances surrounding the property, which makes the proposed nonconforming zone boundary amendment appropriate.*

The applicant indicates that during the last 15 years the trend along Mojave Road has been from residential to commercial.

The existing zoning of the site is R-2 which would allow the property to be redeveloped with single family residences up to 8 du/ac (4 lots). Charleston Boulevard is a major roadway and traffic from this street impacts residential development and the existing trend in the area is a transition from residential use to commercial uses. The land use plan designates this site for Residential High up to 18 du/ac (9 dwelling units). The lot has an area of 0.5 acres which is not large enough to effectively redevelop as a multiple family project. The developments to the north are in the City of Las Vegas, in industrial zoned districts, and developed as commercial uses and a large office/industrial park. The properties to the east are in the County and zoned C-1 and C-2. The size of the parcel is not suitable for residential development but is suitable for neighborhood commercial development.

- 2. The density and intensity of the uses allowed by the nonconforming zoning is compatible with the existing and planned land uses in the surrounding area.*

The applicant indicates that the proposed project will provide a buffer between the properties to the south and west.

The properties to the north are in an industrial zone and developed as such in the City of Las Vegas and the parcels to the east are zoned C-1 and C-2 in the County. There are other commercial and retail uses along this portion of Charleston Boulevard. Commercial and retail uses on this site are more compatible with the existing and planned land uses in the surrounding area.

- 3. There will not be a substantial adverse effect on public facilities and services, such as roads, access, schools, parks, fire and police facilities, and stormwater and drainage facilities, as a result of the uses allowed by the nonconforming zoning.*

The applicant indicates that they believe that the proposed project will have no impact on surrounding schools, roads, or businesses.

- 4. The proposed nonconforming zoning conforms to other applicable adopted plans, goals, and policies.*

Approval of the proposed project will not set an undesirable precedent in the area.

## **Summary**

### **Zone Change**

Based on the criteria listed above, staff finds the applicant has satisfied the requirements for a Compelling Justification to warrant approval of the zone change application. However, since staff is not supporting the requested waivers or design review staff cannot support the zone change. A nonconforming zone change when approved is typically under a Resolution of Intent, which is a contract between the developer and the County that what is approved will be built. In

this case staff is not supporting the design of the project; therefore, there is no approved project that would be the subject of the Resolution of Intent.

#### 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 #1 through #3

The numerous waivers of development standards requested are only necessary due to the design of the project which is a self-imposed hardship. Staff finds that this project can be designed for this site which will not require all of the waivers being requested. The waivers to reduce landscaping requirements do not comply with the land use plan which encourages that all nonconforming zoning requests be conditioned to provide any required or desired buffering from adjacent conforming properties. The reductions in setbacks and elimination of landscape areas along the streets and adjacent to the residential developments does not meet the requirement of commercial development being compatible with adjoining uses with consideration for buffers and setbacks. Staff finds that the number and types of waivers of development standards requested are excessive. The applicant has not provided sufficient justification for these waivers of development standards; therefore, staff does not support the request for the waivers of development standards.

#### Design Review

Staff finds that the applicant is attempting to over build this site as evidenced by the amount of waivers that have been requested. A smaller building located elsewhere on the parcel would allow the majority of the waivers to be removed. In addition, it appears as though the proposed location of the restaurant could create sight visibility concerns at the intersection of Charleston Boulevard and Mojave Road, as well as, at the proposed entrance to the property on Mojave Road. Therefore, staff cannot support the design review.

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

##### Waiver of Development Standards #4

Staff has no objection to the reduction in the departure distance for the Mojave Road commercial driveway. The applicant placed the driveway as far south as the site will allow. However, since staff cannot support the other waivers related to the driveway, staff recommends denial of this waiver.

##### Waiver of Development Standards #5

Staff finds that providing no throat depth for the driveway on Mojave Road will result in on-street stacking of vehicles, causing potential collisions. It is important that traffic can flow without the impediment of vehicles attempting to access the parking lot. Staff cannot support this request due to the safety concerns with no throat depth.

### Waiver of Development Standards #6

Commercial curb return driveways help mitigate traffic by allowing a smooth transition from the road into the commercial site, reducing the potential for collisions. Pan driveways require vehicles to nearly come to a stop to negotiate a turn into a site. As such, pan driveways are not an acceptable standard for any driveways other than emergency access driveways. Staff cannot support this request due to the safety concerns with pan driveways.

### **Staff Recommendation**

Denial. This item has been forwarded to the Board of County Commissioners for final action.

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:

- Resolution of Intent to complete in 3 years;
- 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 new application for a nonconforming zone boundary amendment may be required in the event the building program and/or conditions of the subject application are proposed to be modified in the future; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that 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.

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

- Drainage study and compliance;
- Traffic study and compliance;
- Full off-site improvements;
- Nevada Department of Transportation approval;
- Right-of-way dedication to include a 40 foot property line radius, if required but Public Works;
- Coordinate with Public Works - Design Division for the Mojave Road improvement project;
- Dedicate any right-of-way and easements necessary for the Mojave Road improvement project;
- 30 days to submit a Separate Document to the Map Team for any required right-of-way and easement dedications;
- 90 days to record required right-of-way and easement dedications.

- Applicant is advised that signs, structures, and landscaping shall not encroach into public right-of-way, easements, or sight-visibility zones.

**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 #0169-2020 to obtain your POC exhibit; and that flow contributions exceeding CCWRD estimates may require another POC analysis.

**TAB/CAC: Sunrise Manor - denial.**

**APPROVALS: 10 cards**

**PROTESTS: 1 card**

**PLANNING COMMISSION ACTION:** September 21, 2021 – HELD – To 10/05/21 – per the Planning Commission.

**PLANNING COMMISSION ACTION:** October 5, 2021 – HELD – To 10/19/21 – per the applicant.

**PLANNING COMMISSION ACTION:** October 19, 2021 – FORWARDED – Conditions forthcoming.

**APPLICANT:** GUILLERMO SATARAY PARRA

**CONTACT:** GUILLERMO SATARAY PARRA, FRESH GENERAL SERVICES LLC.,  
10041 W. DIABLO DR., LAS VEGAS, NV 89148