



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: OCTOBER 10, 2023
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT/OWNER: WIESNER SURVIVORS TRUST

**** STAFF RECOMMENDATION(S) ****

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0364-VAR1	Staff recommends DENIAL, if approved subject to conditions:	23-0364-SUP1 23-0364-SDR1
23-0364-SUP1	Staff recommends DENIAL, if approved subject to conditions:	23-0364-VAR1 23-0364-SDR1
23-0364-SDR1	Staff recommends DENIAL, if approved subject to conditions:	23-0364-VAR1 23-0364-SUP1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 20

NOTICES MAILED 700

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

23-0364-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow 118 parking spaces where 185 parking spaces are required.
2. Approval of and conformance to the Conditions of Approval for Special Use Permit (23-0364-SUP1) and Site Development Plan Review (23-0364-SDR1) shall be required, if approved.
3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

23-0364-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Alcohol, On-Premise Full use.
2. Approval of and conformance to the Conditions of Approval for Variance (23-0364-VAR1) and Site Development Plan Review (23-0364-SDR1) shall be required, if approved.

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3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. A Waiver from Title 19.12 is hereby approved, to allow a 348-foot separation distance from a school where 400 feet is required.
5. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.
6. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
7. Approval of this Special Use Permit does not constitute approval of a liquor license.
8. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

23-0364-SDR1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (23-0364-SUP1) and Variance (23-0364-VAR1) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All development shall be in conformance with the site plan date stamped 08/23/23 and landscape plan date stamped 09/18/23, 13929112106 except as amended by conditions herein.
4. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.

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5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. Pursuant to LVMC Title 19.08.040.G for commercial and industrial properties, a perimeter wall shall be constructed adjacent to any residential zoning district or property used solely for residential purposes. The wall or fence is intended to screen the commercial or industrial activity from the residential property, and shall be of a solid decorative material that is a minimum of six feet in height measured from the side of the commercial or industrial property. In no case shall the wall or fence exceed the overall height limitation applicable to the adjacent zoning district or property unless approved through a Variance or other applicable means. The overall height of a wall or fence shall be measured from the side with the greatest vertical exposure above finished grade.
7. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, which shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. Installed landscaping shall not impede visibility of any traffic control device. The technical landscape plan shall include the following changes from the conceptual landscape plan:
 - All trees and planting materials shall be drought-tolerant and consistent with the Southern Nevada Water Authority & Southern Nevada Regional Planting Coalition Regional Plant List.
 - The shrubs shall be a minimum size of 5-gallons.
 - The trees shall be a minimum size of 24-inch box trees.
8. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

9. Contact the City Engineer's Office at 702-229-6272 to coordinate the development of this project with the "Rancho Complete Street NEPA Project (MWA863)" and any other public improvement projects adjacent to this site. Comply with the recommendations by the City Engineer.
10. Landscape and maintain all unimproved right-of-way adjacent to this site. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.

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Fire & Rescue

11. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is proposing to reconfigure an existing parking lot to establish an outdoor plaza at 4543 North Rancho Drive.

ISSUES

- An Alcohol, On-Premise Full use is permitted in the C-2 (General Commercial) zoning district with the approval of a Special Use Permit. Staff does not support this request.
- A Variance is requested to allow 118 parking spaces where 185 are required. Staff does not support this request.
- A Waiver of Title 19.12 is requested to allow a 348-foot separation distance from a school where 400 feet is required. Staff does not support this request.
- A Condition of Approval has been added requiring compliance with Title 19 plant material requirements.

ANALYSIS

The subject site is a C-2 (General Commercial) zoned property and subject to Title 19 development standards. The site is currently developed with an existing legal non-conforming Liquor Establishment (Tavern) with an outdoor patio. The applicant is proposing to reconfigure a portion of their parking lot adjacent to Rancho Drive to establish a 1,581 square-foot outdoor plaza area. Per the submitted site plan date stamped, 08/23/23, the proposed outdoor plaza will provide two cornhole courts, a modular container bar, and stage.

With the addition of the 1,581 square-foot outdoor plaza, a total of 185 parking spaces are required where 118 on-site parking spaces are provided, prompting this Variance request. The site plan indicates a shared parking agreement, but has not submitted such agreement pursuant to Title 19.18.030.D.4. to include off-site parking spaces. The applicant has provided no justification for this request. Therefore, staff finds the Variance to be preferential in nature as the subject site has excess, undeveloped land to the west where the parking requirement can be fulfilled.

Pursuant to Title 19.14(A)(2), If the proposed expansion of a nonconforming use or relocation of the same use on the same parcel or within the same commercial subdivision qualifies under Paragraph (1) of this subsection (A), the nonconforming use may be expanded or relocated on the same parcel or within the same commercial subdivision if the proposed expansion or relocation:

- a. Will not increase the size or extent of the use by more than 50%; and

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- b. Will not require a Variance or Waiver regarding any other provision of this Title, including those that pertain to parking, landscaping, and residential adjacency requirements.

The proposed expansion of the nonconforming Liquor Establishment (Tavern) use would trigger a Variance of parking requirements as described above. Therefore, the applicant has requested a Special Use Permit for the Alcohol, On-Premise Full land use for the entire restaurant.

The Alcohol, On-Premise Full use is defined as, “An establishment licensed to sell alcoholic beverages, not limited to the sale of beer, wine and coolers, consumption on the premises where the same are sold.” The proposed use meets the definition as the existing Tavern Establishment sells alcoholic beverages, not limited to the sale of beer, wine and coolers, for on-premise consumption.

The Minimum Special Use Permit Requirements for this use include:

1. Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by generally requiring a minimum distance separation between an Alcohol, On-Premise Full establishment and certain other uses that should be protected from the impacts associated with that establishment. Therefore, except as otherwise provided in these Requirements, no Alcohol, On-Premise Full establishment may be located within 400 feet of any of the following uses:
 - a. Church/house of worship;
 - b. School;
 - c. Individual care center licensed for more than 12 children; or
 - d. City Park

The existing use does not meet this requirement as a Waiver of the distance separation requirement has been requested to allow a distance separation of 348 feet from a school where 400 feet is required. The protected use is separated by Rancho Road, a 100-foot Primary Arterial which provides an adequate buffer from the existing Alcohol, On-Premise Full use. Despite this, the Special Use Permit request prompts a Variance for parking requirements. Therefore staff does not support this Waiver request.

2. The distance separation requirement set forth in Requirement 1 does not apply to the following:

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- a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
- b. Any alcohol, On-Premise Full use located on property within the Pedestrian Mall, as defined in LVMC Chapter 11.68; the Downtown Entertainment Overlay District, as described in LVMC 19.10.120; or the 18b Arts District, as described in Appendix F to this Title. The Special Use Permit approval may include conditions designed to mitigate any impacts related to distance separation.

While the existing establishment has an active non-restricted gaming license, there is no connection with a hotel having 200 or more guest rooms and is not located on property within the Pedestrian Mall, as defined in LVMC Chapter 11.68, or within the Downtown Entertainment Overlay District, as described in Appendix F to this Title and therefore, the distance separation requirement set forth in Requirement 1 still applies, which the applicant has requested a Waiver of.

The subject site is located in the Rancho neighborhood area as defined in the City of Las Vegas 2050 Master Plan. The suburbs and neighborhoods along the Rancho Drive corridor transition from older inner-ring suburbs to new subdivisions and “ranchos” moving northwest towards Centennial Hills. The area currently lacks cohesion, largely because of the lack of major city and community services. However, with a reimagination of Rancho Drive, and the addition of high capacity transit routes along it, Decatur Boulevard and Craig Road, the area can develop a new identity that balances transit-oriented mixed-use and existing developments. Key implementation strategies for the future of the Rancho neighborhood include developing more accessible parks and open space. The proposed outdoor plaza area creates more open space opportunities for the Rancho neighborhood. The proposed outdoor plaza also relocates parking spaces away from the Rancho Drive street frontage which will make the develop more conducive to future high capacity transit routes along Rancho Drive.

While the proposed development satisfies goals and implementation strategies of the City of Las Vegas 2050 Master Plan, the proposed development requires a Variance of parking requirements which staff cannot support. Therefore, staff is recommending denial of all requested entitlements. If approved, they will be subject to conditions.

FINDINGS (23-0364-VAR1)

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

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1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.16.140(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by requesting a Variance of parking when there is sufficient undeveloped land to fulfill the parking requirement. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (23-0364-SUP1)

In order to approve a Special Use Permit application, per Title 19.16.110(L) the Planning Commission and City Council must affirm the following:

1. **The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The existing Alcohol, On-Premise Full cannot be conducted in a manner that is harmonious and compatible with the existing surrounding land uses, and with future surrounding land uses as projected by the General Plan. This is evidenced by the requested Variance of parking requirements, which staff does not support.

2. **The subject site is physically suitable for the type and intensity of land use proposed.**

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The subject site is an existing restaurant. However, the proposed outdoor plaza addition renders the subject site physically unsuitable for the intensity of land use proposed. This is evidenced by the requested Variance of parking requirements, which staff does not support.

- 3. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

The subject site is accessed by Rancho Drive, a 100-foot Primary Arterial as defined by the Master Plan of Streets and Highways and is adequate in size to service the proposed use.

- 4. Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

If approved, the Special Use Permit will be subject to conditions of approval, business license approval, and compliance inspections to ensure it will not compromise the public health, safety and welfare.

- 5. The use meets all of the applicable conditions per Title 19.12.**

The existing use does not meet Special Use Permit requirement #1 which requires a 400-foot distance separation from a School. The applicant has requested a Waiver of this requirement to allow a 348-foot separation distance, which staff does not support.

FINDINGS (23-0364-SDR1)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

- 1. The proposed development is compatible with adjacent development and development in the area;**

The proposed development is not compatible with adjacent commercial development in the area as the applicant has requested a Variance of parking requirements which staff cannot support.

- 2. The proposed development is consistent with the General Plan, this Title, and other duly-adopted city plans, policies and standards;**

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While the proposed development fulfills objectives of the City of Las Vegas 2050 Master Plan, a Variance of parking requirements is requested. No justification has been provided for this request and therefore, this Variance request makes the proposed development inconsistent with Title 19 and other duly-adopted city plans, policies, and standards.

3. Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;

Site access is provided by Rancho Drive, a 100-foot Primary Arterial as defined by the Master Plan of Streets and Highways. The proposed outdoor plaza will result in traffic circulation being routed towards the rear of the development and does not negatively impact adjacent roadways or neighborhood traffic.

4. Building and landscape materials are appropriate for the area and for the City;

Existing building elevations remain unchanged. The submitted landscape plan date stamped, 09/18/23, indicates three 24-inch box Raywood Ash trees. Landscape materials for the proposed outdoor plaza are not specified. A condition of approval has been added to address this issue.

5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

Existing building elevations continues to create an orderly and aesthetically pleasing environment and is harmonious and compatible with development in the area.

6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.

The proposed outdoor plaza is subject to building permit review and regular inspections during the installation phase to secure and protect the public health, safety and general welfare.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
01/27/72	The Board of Zoning Adjustment approved a requested Variance (V-0003-72) to include a repair garage and service station, excluding all other proposed uses except one mobile home to be used as living quarters for a watchman on property located at 4543 Tonopah Highway.
12/08/97	The City Council approved a request for a Special Use Permit (U-0111-97) for a proposed Brew Pub in conjunction with an existing Tavern and Restaurant on property located at 4543 North Rancho Drive. The Planning Commission recommended approval of the request on 11/06/97.
04/14/98	The Board of Zoning Adjustment approved a request for a Variance (V-0007-98) to allow a 70 square-foot addition to a 65-foot 341 square-foot Non-Conforming Freestanding Sign where 40 feet and 400 square feet is the maximum height and sign area allowed on property located at 4543 North Rancho Drive.
01/19/00	The City Council approved a request for a Variance (V-0087-99) to allow a 77 square-foot addition to a non-conforming Sign on property located at 4543 North Rancho Drive. The Board of Zoning Adjustment recommended approval of the request on 12/07/99.
10/04/00	The City Council approved a request for a Site Development Plan Review (SD-0045-00) for a 9,715 square-foot addition to an existing 9,420 square-foot Tavern (Draft House) at 4543 North Rancho Drive. The Planning Commission recommended approval of the request on 08/24/00.
12/20/00	The City Council approved a request for a Variance (V-0052-00) to allow an expansion of a Non-Conforming Use at 4543 North Rancho Drive. The Planning Commission recommended approval of the request on 08/24/00
02/21/01	The City Council approved a request for a One Year Required Review [V-0087-99(1)] on an approved Variance (V-0087-99) to allow a 77 square-foot addition to a Legal Non-Conforming Sign on property located at 4543 North Rancho Drive.
10/14/03	A Code Enforcement case (#5528) was processed for an A-frame temporary sign without a permit on property located at 4543 North Rancho Drive. The case was resolved on 12/23/03.
09/30/04	A Code Enforcement case (#22268) was processed for a large pile of trash bags and palm leaves near back fence on property located at 4543 North Rancho Drive. The case was resolved on 10/19/04

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Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.	
12/16/04	A Code Enforcement case (#24535) was processed for illegal outside storage on property located at 4543 North Rancho Drive. The case was resolved on 01/12/06.
03/10/05	A Code Enforcement case (#27031) was processed for illegal outside storage on property located at 4543 North Rancho Drive. The case was resolved on 03/15/05.
02/17/15	A Code Enforcement case (#150648) was processed for a check to see if outside seating was approved on property located at 4543 North Rancho Drive. The case was resolved on 07/09/18.
05/17/16	The Department of Community Development - Planning Division approved a request for a Minor Site Development Plan Review (SDR-64422) to a previously approved Site Development Plan Review (SD-0045-00) for a proposed 1,120 square-foot building addition and parking lot reconfiguration for an existing non-conforming Liquor Establishment (Tavern) on 3.33 acres at 4543 North Rancho Drive.
09/15/21	The Department of Community Development - Planning Division approved a request for a Minor Site Development Plan Review (21-0514-SDR1) to a previously approved Site Development Plan Review (SD-0045-00) to allow a 441 square-foot expansion for a screened equipment yard and parking lot reconfiguration at 4543 North Rancho Drive.

Most Recent Change of Ownership	
08/10/11	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
01/51/51	A business license (#R09-00273) was issued for a Restaurant (Draft House Barn & Casino) located at 4543 North Rancho Drive. The license is still active.
	A business license (#L16-00396) was issued for a Tavern (Draft House Barn & Casino) located at 4543 North Rancho Drive. The License is still active.
	A business license (#G07-00033) was issued for a Non-Restricted Gaming [35 slot machines] (Draft House Barn & Casino) located at 4543 North Rancho Drive. The license is still active.
04/29/03	A building permit [(#3008551) Plan Check C-29-02] was issued for an addition to an existing building located at 4543 North Rancho Drive. The project was completed on 12/30/2003.

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Related Building Permits/Business Licenses	
05/03/07	A business license (#C08-01748) was issued for a Coin Amusement Machine; three amusement machines and one cigarette machine (Draft House Barn & Casino) located at 4543 North Rancho Drive. The license is still active.
06/01/09	A building permit (#140662) was issued for a monument and wall sign at 4543 North Rancho Drive. The permit has not been finalized.
04/24/12	A building permit (#209612) was issued for a tenant improvement to install new brewing equipment at 4543 North Rancho Drive. The permit has not been finalized.
12/30/14	A business license (#G62-10054) was issued for a Food Caterer (Top Dog Catering) located at 4543 North Rancho Drive. The license is still active.
01/26/15	A business license (#P62-00334) was issued for an Alcoholic Beverage Caterer (Top Dog Catering) located at 4543 North Rancho Drive. The license is still active.
	A business license (#L63-00030) was issued for an Alcoholic Beverage Caterer (Top Dog Catering) located at 4543 North Rancho Drive. The license is still active.

Pre-Application Meeting	
07/12/23	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Site Development Plan Review, Special Use Permit, and Variance.

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
08/30/23	Staff conducted a routine field check of the subject site. Nothing of concern was noted.

Details of Application Request	
Site Area	
Net Acres	3.33

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Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Non-Conforming Liquor Establishment (Tavern)	SC (Service Commercial)	C-2 (General Commercial)
North	Auto Repair Garage, Major	GC (General Commercial)	C-2 (General Commercial)
South	Residential, Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
West	Undeveloped	SC (Service Commercial)	C-1 (Limited Commercial)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Rancho	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District – 175 Feet	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	N/A	145,054 SF	Y
Min. Lot Width	100 Feet	775 Feet	Y
Min. Setbacks			
• Front	10 Feet	55 Feet	Y
• Side	10 Feet	47 Feet	Y
• Corner	10 Feet	76 Feet	Y
• Rear	20 Feet	48 Feet	Y
Max. Lot Coverage	N/A	14%	Y

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Standard	Required/Allowed	Provided	Compliance
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Screened, Gated w/a Roof or Trellis	Y

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
Trash Enclosure	50 Feet	51 Feet	Y

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Rancho Drive	Primary Arterial	Master Plan of Streets and Highways Map	120 Feet	Y

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required Parking Ratio	Required Parking		Provided Parking		Compliance
			Regular	Handi-capped	Regular	Handi-capped	
			Alcohol, On-Premise Full	155 Spaces 7,706 SF	1:50 SF public seating/waiting	155	
	22 Spaces 4,324	1:200 GFA remaining	22				
Liquor Establishment (Tavern) Existing Brewery Area	3,383 SF	1:1000	4				
Warehouse	4,000 SF	1:1000	4				
TOTAL SPACES REQUIRED			185		118		N*
Regular and Handicap Spaces Required			179	6	112	6	N*
Percent Deviation			37%				N*

*A Variance (23-0364-VAR1) has been requested to allow 118 parking spaces where 185 are required.

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Waivers		
Requirement	Request	Staff Recommendation
No Alcohol, On-Premise Full establishment may be located within 400 feet of any of the following uses: Church/House of Worship, School, Individual Care Center licensed for more than 12 children; or City park	To allow a 348-foot separation distance from a school.	Denial