



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: JANUARY 14, 2025

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: DONALD RAY PHILLIPS, ET AL

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0605-VAR1	Staff recommends DENIAL, if approved subject to conditions:	
24-0605-VAR2	Staff recommends DENIAL, if approved subject to conditions:	24-0605-VAR1
24-0605-SUP1	Staff recommends DENIAL, if approved subject to conditions:	24-0605-VAR1 24-0605-VAR2
24-0605-SDR1	Staff recommends DENIAL, if approved subject to conditions:	24-0605-VAR1 24-0605-VAR2 24-0605-SUP1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

22

NOTICES MAILED

204

PROTESTS

0

APPROVALS

0

**** CONDITIONS ****

24-0605-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a 10-foot rear yard setback where 35 feet is required.
2. A Variance is hereby approved to allow a trash enclosure setback of 41 feet where 50 feet is required.
3. Approval of and conformance to the Conditions of Approval for Variance (24-0605-VAR2), Special Use Permit (24-0605-SUP1) and Site Development Plan Review (24-0605-SDR1) shall be required, if approved.
4. 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.
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.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

24-0605-VAR2 CONDITIONS

Planning

1. A Variance is hereby approved to allow 21 parking spaces where 26 are required.
2. Approval of and conformance to the Conditions of Approval for Variance (24-0605-VAR1), Special Use Permit (24-0605-SUP1) and Site Development Plan Review (24-0605-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.

24-0605-SUP1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variances (24-0605-VAR1 and VAR2) and Site Development Plan Review (24-0605-SDR1) 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 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.

Conditions Page Three

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4. 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.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

24-0605-SDR1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variances (24-0605-VAR1 and VAR2) and Special Use Permit (24-0605-SUP1) 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, landscape plan, and building elevations, date stamped 11/21/24, except as amended by conditions herein.
4. A Waiver from Title 19.06.060 is hereby approved, to allow a six-foot landscape buffer adjacent to the right-of-way where 15 feet is required.
5. An Exception from Title 19.08.110 is hereby approved, to allow four interior parking area trees/islands where nine are required.
6. 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.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.

Conditions Page Four**January 14, 2025 - Planning Commission Meeting**

8. 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.
9. Trash enclosures shall be provided in conformance with the provisions of Title 19.08.040.E.
10. Mechanical equipment shall be screened in accordance with Title 19 development standards.
11. 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.
12. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

13. Construct half-street improvements including appropriate transition on Elkhorn Road adjacent to this site concurrent with development of this site. Extend all required underground utilities, such as electrical, telephone, etc., located within public rights-of-way, past the boundaries of this site prior to construction of hard surfacing (asphalt or concrete). All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site. Additionally, install a median in Elkhorn Road from Jones Boulevard to Boyd Lane with 150 feet of left-turn storage for Boyd Lane.

Conditions Page Five**January 14, 2025 - Planning Commission Meeting**

14. In accordance with code requirements of Title 13.56 and Section 2.2 of the City's Vision Zero Action Plan, remove all substandard offsite improvements and unused driveway cuts on Jones Boulevard and replace with new improvements meeting Public Right-of-Way Accessibility Guidelines (PROWAG) to the satisfaction of the City Engineer concurrent with development of this site. Grant Pedestrian Access Easement(s) if necessary to comply with this requirement. All existing paving damaged or removed by this development shall be restored at its original location, width and depth concurrent with development of this site.
15. Unless otherwise allowed by the City Engineer, construct sidewalk on at least one side of the access drive on Elkhorn Road connecting this site to the adjacent public streets concurrent with development of this site. The connecting sidewalk shall extend from the sidewalk on the public street to the first intersection of the on-site roadway network and shall be terminated on-site with a handicap ramp.
16. Utilize the existing sewer lateral connection from existing public sewer main on Jones Boulevard. Upgrade the existing lateral connection if it cannot support sewer capacity for the proposed daycare.
17. 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.
18. Queues for this site shall not extend into the public right-of-way as a result of the pick-up and drop off operations on this site.
19. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans or the issuance of any building or grading permits whichever may occur first. Provide and improve all drainage ways as recommended.

Fire & Rescue

20. 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a project request for a proposed daycare development that fails to comply with Title 19 minimum development standards on 0.67 acres located at the northeast corner of Elkhorn Road and Jones Boulevard.

ISSUES

- The Individual Care Center use is permitted in the R-E (Residence Estates) zoning district with the approval of a Special Use Permit. Staff does not support the request.
- The proposed facility will accommodate 15 staff members and 108 students.
- A Variance is requested to allow a 10-foot rear yard setback where 35 feet is required. Staff does not support the request.
- A Variance is requested to a trash enclosure setback of 41 feet where 50 feet is required. Staff does not support the request.
- A Variance is requested to allow 21 parking spaces where 26 are required. Staff does not support the request.
- Waivers are requested to allow six-foot wide landscape buffers adjacent to the right-of-way where 15 feet is required. Staff does not support the request.
- An Exception is requested to allow four interior parking area tree/islands where nine are required. Staff does not support the request.

ANALYSIS

The subject 0.67-acre site is currently undeveloped and zoned R-E (Residence Estates). Development is subject to Title 19 development standards. Surrounding properties are zoned R-E (Residence Estates), R-PD2 (Residential Planned Development - 2 Units per Acre) and R-1 (Single Family Residential). All are developed with existing single-family dwellings. The applicant proposes to develop the subject site with a 6,900 square-foot Individual Care Center Facility (Daycare).

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Per Title 19, the Individual Care Center use is defined as, “A commercial facility which provides personal care and related services to more than 12 children or dependent adults in a supervised, protective, congregate setting during some portion of a twenty-four hour day. Such a use is subject to the care-related regulations and standards of the State of Nevada. Services typically offered in conjunction with dependent adult care include social and recreational activities, training, meals, and services such as rehabilitation and medication assistance.” The applicant meets this definition as they propose to operate a childcare facility that provides personal care and service to children in a supervised, protective, congregate setting during some portion of a twenty-four-hour day.

The Individual Care Center is permitted in the R-E Zoning District with the approval of a Special Use Permit. There are no minimum Special Use Permit requirements listed for the use.

The submitted plans depict a single-story, 6,900 square-foot building with outdoor play areas located north and south of the building. Access is proposed solely from Elkhorn Road, a 100-foot Primary Arterial. The proposed building façade materials features stucco and stone in neutral tones. The floor plan depicts four individual classrooms, a multi-purpose room, office space, a laundry room, a lounge area and kitchen. The following deviations from Title 19 development standards are requested:

- A Variance is requested to allow a 10-foot rear yard setback where 35 feet is required.
- A Variance is requested to a trash enclosure setback of 41 feet where 50 feet is required.
- A Variance is requested to allow 21 parking spaces where 26 are required.
- Waivers are requested to allow six-foot wide landscape buffers adjacent to the right-of-way where 15 feet is required.
- An Exception is requested to allow four interior parking area tree/islands where nine are required.

Pursuant to Title 19, the Individual Care Center use requires one parking space for each staff member, plus one space for each 10 individuals cared for. Per the submitted plans, the facility will have 108 students and 15 staff members. Title 19.06 residential adjacency standards requires trash enclosures to be at least 50 feet from protected residential zoning districts. A trash enclosure setback of 41 feet is proposed from the R-E zoned property adjacent to the north. One-story buildings up to 15 feet in height can be exempt from residential adjacency requirements. The proposed building is one-story and 15 feet tall. A key goal from the 2050 City of Las Vegas Master Plan is to reduce the urban heat island effect, thereby staff does not support the Waiver and Exception requests for landscaping. Staff finds the Variance requests to be a self-imposed hardship and thereby recommends denial. If approved, they will be subject to conditions.

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The Department of Public Works - Traffic Engineering Division has commented, "This project is expected to add an additional 329 trips per day on Elkhorn Road and Jones Boulevard. Currently, Elkhorn Road is at about 26 percent of capacity and Jones Boulevard is at about 39 percent of capacity. With this project, Elkhorn Road is expected to be at about 27 percent of capacity and Jones Boulevard is expected to be at about 40 percent of capacity. Based on Peak Hour use, this development will add into the area roughly 77 additional peak hour trips, or about five every four minutes."

Staff finds the proposed development to be overbuilt and that it will not be harmonious and compatible with the existing residential development in the surrounding area. This is evident by the requested Variances, Waivers and Exceptions of Title 19 development standards. Therefore, staff recommends denial of all requested entitlements. If approved, they will be subject to conditions.

FINDINGS (24-0605-VAR1 and VAR2)

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:

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 proposing to develop the subject site without conformance to Title 19 development standards. Redesign and reducing the scale of the development would allow conformance to the Title 19 requirements. 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 (24-0605-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 proposed land use cannot be conducted in a harmonious and compatible manner with the existing residential development in the surrounding area. This is evident by the requested Variances, Waivers and Exceptions of development standards.

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

The applicant is proposing to overdevelop the subject site and it is not physically suitable for the proposed use as evident by the requested Variances, Waivers and Exceptions of development standards.

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.**

Site access is proposed from Elkhorn Road, a 100-foot Primary Arterial, which is adequate in size to accommodate the needs of the proposed development.

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 proposed development will be subject to building permit and licensing requirements, thereby protecting the public health, safety and general welfare.

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

There are no minimum Special Use Permit requirements listed for the Individual Care Center use.

FINDINGS (24-0605-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 would not be compatible with the existing residential development in the surrounding area as evident by the requested Variances for setbacks, trash enclosure location and parking.

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

The applicant requests Variances, Waivers and Exceptions of Title 19 development standards pertaining to parking, setbacks, trash enclosure located and landscaping.

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

Site access is proposed from Elkhorn Road, a 100-foot Primary Arterial, which is adequate in size to accommodate the needs of the proposed development.

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

The primary building façade materials of stucco and stone are appropriate for the area and for the City. The proposed planting materials adhere to the recommendations of the Southern Nevada Regional Plant List.

- 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;**

The proposed building elevations are not unsightly or obnoxious in appearance. However, a Variance is requested to allow a 10-foot rear yard setback where 35 feet is required which is not compatible with existing development in the surrounding area.

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

If approved, the proposed development will be subject to building permit and licensing requirements, thereby protecting the public health, safety and general welfare.

BACKGROUND INFORMATION

Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.

There are no related city actions of note.

Most Recent Change of Ownership

07/15/22	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

There are no related building permits/business licenses of note.

Pre-Application Meeting

11/13/24	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a proposed Day Care development.
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Neighborhood Meeting

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

Field Check

12/05/24	Staff conducted a routine field check and found an undeveloped lot. No issues were noted.
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Details of Application Request

Site Area

Net Acres	0.67
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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Undeveloped	R (Rural Density Residential)	R-E (Residence Estates)
North	Residential, Single Family, Detached	R (Rural Density Residential)	R-E (Residence Estates)
South	Residential, Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
East	Residential, Single Family, Detached	R (Rural Density Residential)	R-E (Residence Estates)
West	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development - 2 Units per Acre)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Tule Springs	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
RP-O (Rural Preservation Overlay) District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
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 19.06, the following standards apply:*

Standard	Required/Allowed	Provided	Compliance
Min. Setbacks			
• Front	50 Feet	134 Feet	Y
• Side	10 Feet	29 Feet	Y
• Corner	15 Feet	18 Feet	Y
• Rear	35 Feet	10 Feet	N*
Max. Building Height	2 stories/35 Feet	15 Feet	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Screened, Gated, w/ a Roof or Trellis	Y
Mech. Equipment	Screened	Not indicated	By Condition

*A Variance is requested to allow a reduced rear yard setback area.

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
Trash Enclosure	50 Feet	41 Feet	N*

*A Variance is requested to allow a reduced trash enclosure setback from a protected residential zoning district.

Pursuant to Title 19.06, the following standards apply:

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	13 Trees	13 Trees	Y
• South	1 Tree / 20 Linear Feet	10 Trees	10 Trees	Y
• East	1 Tree / 20 Linear Feet	5 Trees	5 Trees	Y
• West	1 Tree / 20 Linear Feet	4 Trees	4 Trees	Y
TOTAL PERIMETER TREES		32 Trees	32 Trees	Y
Parking Area Trees	1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces	9 Trees	4 Trees	N*

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
LANDSCAPE BUFFER WIDTHS				
Min. Zone Width				
• North	8 Feet		8 Feet	Y
• South	15 Feet		6 Feet	N**
• East	8 Feet		8 Feet	Y
• West	15 Feet		6 Feet	N**
Wall Height	6 to 8 Feet Adjacent to Residential		Not Indicated	By Condition

*An Exception is requested to allow a reduction in required interior parking area trees.

**Waivers are requested to allow reduced landscape buffers adjacent to the right-of-way.

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Jones Boulevard	Primary Arterial	Master Plan of Streets and Highways Map	100	Y
Elkhorn Road	Primary Arterial	Master Plan of Streets and Highways Map	100	N*

*Half-street improvements will be required as a Condition of Approval.

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

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Individual Care Center	15 Staff Members	One per each staff member, plus one per 10 students	15				
	108 Students		11				
TOTAL SPACES REQUIRED			26		21		N*
Regular and Handicap Spaces Required			24	2	20	1	N*
Percent Deviation			20%				

*A Variance is requested to allow a reduction in required parking.

Waivers		
Requirement	Request	Staff Recommendation
Provide 15-foot landscape buffers adjacent to the right-of-way	To allow six-foot landscape buffers adjacent to the right-of-way	Denial

Exceptions		
Requirement	Request	Staff Recommendation
Provide one tree per six uncovered spaces, plus one tree at the end of each row of spaces (9)	Provide four interior parking areas trees/islands	Denial