

*City of Las Vegas*

**AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: NOVEMBER 18, 2020

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: FRANCISCO TINOCO - OWNER: DATEN, INC

---

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>20-0124-SUP1</b>	Staff recommends APPROVAL, subject to conditions:	

**\*\* NOTIFICATION \*\***

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 11

**NOTICES MAILED** 190 (By City Clerk)

**PROTESTS** 4

**APPROVALS** 0

**\*\* CONDITIONS \*\***

---

## 20-0124-SUP1 CONDITIONS

---

### **Planning**

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Open Air Vending use.
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 Department of Building and Safety.
4. A Waiver from Title 19.12 is hereby approved, to allow the two vendors within a 613.20 square-foot area that exceeds 500 square feet.
5. A Waiver from Title 19.12 is hereby approved, to allow the use to be located six feet from the front-yard property line, where 10 feet is required.
6. A Waiver from Title 19.12 is hereby approved, to allow the proposed Open Air Vending (Mobile Food Trucks) to operate from 10:00am to 11:00pm, where 10:00am to 8:00pm is allowed.
7. The use of amplified sound is prohibited.
8. 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.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

### **Public Works**

10. Prior to the issuance of any permits, meet with the Sanitary Sewer Section of the Department of Public Works to determine the possibility of a sewer connection and pretreatment requirements.

**Staff Report Page One**  
**November 18, 2020 – City Council Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The applicant is requesting a Special Use Permit for an existing Open Air Vending (Food Trucks) use within an existing commercial development at 5068 East Washington Avenue.

**ISSUES**

- A Special Use Permit is required for the Open Air Vending (Mobile Food Vendor), as the use does not comply with Conditional Use Regulation #7d, #7e and #7f.
- A Waiver of Title 19.12 Condition #7(d) is required to allow the two vendors within a 613.20 square-foot area that exceeds 500 square feet. Staff recommends approval of this request.
- A Waiver of Title 19.12 Condition #7(e), to allow the use to be located six feet from the front-yard property line adjacent to Nellis Boulevard, where 10 feet is required. Staff recommends approval of this request.
- A Waiver of Title 19.12 Condition #7(f), to allow the proposed Open Air Vending (Mobile Food Trucks) to operate from 10:00am to 11:00pm, where 10:00am to 8:00pm is allowed. Staff recommends approval of this request.

**ANALYSIS**

The subject site located at 5068 East Washington Avenue, is zoned M (Industrial) and is subject to Title 19 development standards. The site currently has three structures (2,400 + 264 + 280) which total 2,944 square feet in interior floor area. Furthermore, there are two active business licenses which operate on the site for Automotive Sales with Minor Repair (Nellis Motors) and for Automotive Repair Garage - Minor (Auto Care Plus). Nellis Motors operates in the 264 and 280 square-foot structures and Auto Care Plus operates in the 2,400 square-foot structure.

The applicant has requested a Special Use Permit to allow an Open Air Vending (Mobile Food Vendor) use to operate on the subject site, which does not comply with Conditional Use Regulation 7(d), (e) and (f), which states “No more than one vendor is permitted on any one lot, and the vending area shall be limited to a maximum of 500 square feet, vending operations shall comply with required building setbacks for that location. Adjacent to a residentially zoned lot the hours of operation shall be limited to the period between 10 a.m. and 8 p.m..

**Staff Report Page Two**  
**November 18, 2020 – City Council Meeting**

The applicant is currently licensed as a Mobile Food Vendor (G68-01166 - Birrieria Gonzalez) at 1935 Fremont Street and operates at the subject site as a Mobile Food Vendor. The applicant has requested to operate another Open Air Vending (Food Truck), which will be named “Mariscos El Bigoton” and will sell seafood and to allow the two trucks to stay onsite until 11:00pm. The applicant has also requested to allow the trucks to be located six feet from the front property line where 10 feet is required and to allow the two vendors within a 613.20 square-foot area that exceeds 500 square feet.

An Open Air Vending/Transient Sales Lot use is described in Tile 19.12 as: “An outdoor area or lot that is used exclusively, or on a regular or periodic basis, for the sale or taking of orders for any merchandise, including food items, where such merchandise is displayed or sold within or upon the area or lot. This use includes the display or sale of merchandise by means of Open Air Vending, Mobile Food Vending and a Farmer’s Market. This use includes the display or sale of merchandise by means of Open Air Vending and Mobile Food Vending.

**Conditional Use Regulations:**

1. No signage, including temporary signage, is allowed, except that, in the case of Open Air Vending or Mobile Food Vending, the vehicle or portable unit may include signage which is affixed thereto but only to the extent such signage is not prohibited by LVMC 19.08.120(E)(3).

*No additional temporary signage has been proposed with this project.*

2. The site must be kept free of any litter or debris at all times.

*The applicant will be required to keep the site free of any litter or debris at all times. In addition, there has been no Licensing Enforcement or Code Enforcement cases processed for the existing use.*

3. No structures shall be allowed within the public right-of-way.

*There are no structures proposed within the public right-of way with this project.*

4. The installation of permanent or temporary tables, chairs, tents, or coverings for dining areas (including tarps and umbrellas) is prohibited, except when the use of such facilities has been approved by means of a Site Development Plan Review or is within the plaza area of a commercial lot.

*No permanent or temporary tables, chairs, tents, or coverings for dining areas (including tarps and umbrellas) have been proposed with this project.*

**Staff Report Page Three**  
**November 18, 2020 – City Council Meeting**

5. Vehicles or portable units used in the operation may not occupy:
- a. Required parking spaces or required drive aisles; or
  - b. Required loading zones, unless otherwise permitted under Conditional Use Regulation 8.

*The proposed Open Air Vending operation is located on the eastern perimeter of the subject site and is not located within any required parking spaces or required drive aisles.*

6. The vending/sales activity must be located at least 150 feet from residential development except where the location is part of a mixed-use development.

*The proposed Open Air Vending operation is located approximately 250 feet away from the single family residence located to the west of the subject site.*

7. For Open Air Vending, in addition to Conditional Use Regulations 1 through 6:
- a. No such vending is permitted in the O (Office) Zoning District;

*The subject site is located within the M (Industrial) zoning district.*

- b. No such vending is permitted on undeveloped lots or developed lots with unoccupied structures or unpaved surfaces;

*The proposed Open Air Vending operation is located on an existing commercial development which provides a paved surface.*

- c. No such vending is permitted within landscaped areas;

*The existing Open Air Vending operation is not located within landscape area.*

- d. No more than one vendor is permitted on any one lot, and the vending area shall be limited to a maximum of 500 square feet; provided, however, that those limitations do not apply:

- i. In connection with a Special Event Permit that allows a greater level of vending activity by means of Open Air Vending;
- ii. On a parcel whose development approval or approvals contemplate a greater level of vending activity by means of Open Air Vending; or
- iii. Within the plaza area of a commercial lot;

*The proposed use does not comply with this condition. The applicant has proposed to operate two Open Air Vendors on the subject site. In addition, the vending area for the two food trucks is approximately 306.60 square feet in size respectively, resulting in 613.20 square feet combined which exceeds 500 square feet.*

**Staff Report Page Four**  
**November 18, 2020 – City Council Meeting**

e. At a location other than the plaza area of a commercial lot, vending operations shall comply with required building setbacks for that location;

*The proposed use does not comply with this condition. The submitted plans indicate the proposed Open Air Vending (Food Trucks) are located 6 feet from the front-yard property line adjacent to Nellis Boulevard, where 10 feet is required by Title 19.08.*

f. On any lot that is adjacent to a residentially zoned lot, the hours of operation shall be limited to the period between 10 a.m. and 8 p.m.; and

*The proposed use does not comply with this condition. The applicant has requested a Waiver of this condition to allow the proposed Open Air Vending (Mobile Food Trucks) to operate from 10:00am to 11:00pm, where 10:00am to 8:00pm is allowed.*

g. No supply or drainage pipes or power supply cords that pertain to the vending operation may be placed on or across surface parking or unimproved areas, or be attached to adjoining or nearby buildings, unless the vending operation is located immediately adjacent to the building so that the attached pipes or power cords have minimal exposure and do not present a potential hazard for passersby.

*During the required field check conducted by staff, staff noticed a well maintained Open Air Vending (Food Truck) use at the subject site.*

Due to the fact the two food trucks have been located on the eastern perimeter of the site adjacent to Nellis Boulevard within a paved area and have existing commercial uses to the north, south and east; staff has determined the request to amend the allowable hours of operation, allow the food trucks within the front yard setback and allow two vendors on the site within an area that exceeds 500 square feet is suitable for the subject site. Furthermore, the existing residential land use located to the west of the subject site, is approximately 250 feet away from where the food trucks will be located and will not be negatively impacted by the Open Air Vending operation on the subject site. Therefore, staff recommends approval of the Special Use Permit with conditions.

**FINDINGS (20-0124-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:

**Staff Report Page Five**  
**November 18, 2020 – City Council Meeting**

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 Open Air Vending (Food Truck) use is compatible with the GC (General Commercial) General Plan land use designation and is located within an existing commercial development. The existing use requires a Waiver to amend its hours of operation to 10:00am to 11:00pm, where 10:00am to 8:00pm is allowed and allow two vendors of the site with an area that exceeds 500 square feet. Staff has determined that the proposed use can be conducted in a manner that is harmonious and compatible with the surrounding land uses.

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

The Open Air Vending (Food Trucks) are located within an established commercial development and is currently in operation on the subject site as a mobile food vendor. There is no evidence of a physical constraint on the subject site.

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.**

Primary site access is from Washington Avenue, an 80-foot wide Primary Arterial and Nellis Boulevard an 100-foot wide Primary Arterial, as designated by the Master Plan of Streets and Highways Map. The rights-of-way provide adequate capacity to serve 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.**

The proposed Open Air Vending (Food Truck) use will be subject to regular inspections by regulatory agencies for business licensing and will therefore not compromise the public's health, safety or general welfare, or the overall objectives of the General Plan.

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

Meets all conditions except 7(d), (e) and (f), the applicant has proposed a Waiver to amend the allowable hours of operation, allow the food trucks within the front yard setback and allow two vendors of the site within an area that exceeds 500 square feet. Staff supports the applicant's request for a Waiver.

Staff Report Page Six  
November 18, 2020 – City Council Meeting

### BACKGROUND INFORMATION

<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
04/10/63	The City Council approved a request for a Rezoning and Plot Plan (Z-0022-63) from R-2 (Two Family Residence) to C-2 (General Commercial) on property located on the northwest corner of Washington Avenue and Nellis Boulevard. The plot plan proposes one building with an apartment over it which is not permitted in the C-2 zone, a condition was added to remove the residential use. The City Planning Commission recommended approval of the request.
05/20/64	The Board of City Commissioners approved a request for a Rezoning and Plot Plan (Z-0045-65) from C-2 (General Commercial) to M (Industrial) on property located on the northwest corner of Washington Avenue and Nellis Boulevard. The Plot Plan established the eastern perimeter of the site as an outdoor store area.
07/23/71	The Board of City Commissioners approved a request for a Rezoning and Plot Plan (Z-0038-71) from R-2 (Two Family Residence) to C-2 (General Commercial) on property generally located on the west side of Nellis Boulevard between East Washington Avenue and Sandra Road, for a proposed used car lot, Garage and Body Shop. The City Planning Commission recommended approval of the request.
02/17/88	The City Council approved a request for a Review of Condition (Z-0045-64) to allow outside storage on property located at 5068 East Washington Avenue. A condition of approval (#1) was added which stated, "The outside storage use to cease within six months." The Planning Commission recommend approval of the request.
10/13/20	The Planning Commission unanimously voted to recommend APPROVAL on a Land Use Entitlement project request for a Special Use Permit FOR AN OPEN AIR VENDING/TRANSIENT SALES USE (MOBILE FOOD VENDOR) USE at 5068 East Washington Avenue (APN 140-29-602-005), M (Industrial) Zone, Ward 3 (Diaz).

<b><i>Most Recent Change of Ownership</i></b>	
07/19/95	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
11/17/89	A business license (A65-00018) was issued for Automotive Sales with Minor Repair (Nellis Motors) at 5068 East Washington Avenue, Suite A. The license is still active.
04/12/10	A business license (A60-00159) was issued for Automotive Repair Garage - Minor (Auto Care Plus) at 5068 East Washington Avenue, Suite B. The license is still active.



**Staff Report Page Seven**  
**November 18, 2020 – City Council Meeting**

**Related Building Permits/Business Licenses**

03/25/20	A business license (G68-01166) was issued Mobile Food Vendor (Birrieria Gonzalez) at 1935 Fremont Street. The license is still active.
----------	----------------------------------------------------------------------------------------------------------------------------------------

**Pre-Application Meeting**

07/19/95	A pre-application meeting was conducted with the applicant to go over the application materials and submittal requirements for a Special Use Permit Open Air Vending – Mobile Food Vendor.
----------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Neighborhood Meeting**

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

**Field Check**

09/03/20	A routine field check was conducted by staff and found a well maintained commercial development.
----------	--------------------------------------------------------------------------------------------------

**Details of Application Request**
**Site Area**

Net Acres	0.57
-----------	------

<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Auto Repair Garage, Major	GC (General Commercial)	M (Industrial)
	Motor Vehicle Sales (Used)		
	Open Air Vending/Transient Sales Lot (Mobile Food Vending)		
North	Auto Repair Garage, Major	GC (General Commercial)	C-2 (General Commercial)
	Motor Vehicle Sales (Used)		
South	General Retail, Other than Listed	SC (Service Commercial)	C-1 (Limited Commercial)

**Staff Report Page Eight**  
**November 18, 2020 – City Council Meeting**

<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
East	General Retail, Other than Listed	CG (Commercial General) – Clark County	C-2 (General Commercial) – Clark County
West	Single Family Detached Dwelling	R (Rural Density Residential)	R-E (Residence Estates)

<b><i>Master and Neighborhood Plan Areas</i></b>	<b><i>Compliance</i></b>
No Applicable Master Plan Area	N/A
<b><i>Special Area and Overlay Districts</i></b>	<b><i>Compliance</i></b>
RP-O (Rural Preservation Overlay) District	Y
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></b>
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**

<b><i>Street Name</i></b>	<b><i>Functional Classification of Street(s)</i></b>	<b><i>Governing Document</i></b>	<b><i>Actual Street Width (Feet)</i></b>	<b><i>Compliance with Street Section</i></b>
Washington Avenue	Primary Arterial	Master Plan of Streets and Highways Map	80	Y
Nellis Boulevard	Primary Arterial	Master Plan of Streets and Highways Map	100	Y

**Staff Report Page Nine**  
**October 13, 2020 - Planning Commission Meeting**

***Pursuant to approved Plot Plan (Z-0045-64), 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	
Automotive Repair Garage (Minor)	2,400 SF	1:200, plus 5 spaces	N/A				
Motor Vehicle Sales	544 SF	1:500	N/A				
Mobile Food Vending	2 Vendors	N/A	N/A				
TOTAL SPACES REQUIRED			9		33		
Regular and Handicap Spaces Required			9	-	32	1	Y

<b>Waivers</b>		
<b>Requirement</b>	<b>Request</b>	<b>Staff Recommendation</b>
No more than one vendor is permitted on any one lot, and the vending area shall be limited to a maximum of 500 square feet	To allow to the two vendors within a 613.20 square-foot area.	Approval
Vending operations shall comply with required building setbacks for that location	To allow the use to be located six feet from the front-yard property line adjacent to Nellis Boulevard, where ten feet is required.	Approval
Adjacent to a residentially zoned lot, the hours of operation shall be limited to the period between 10 a.m. and 8 p.m.	To allow the proposed Open Air Vending (Mobile Food Trucks) to operate from 10:00am to 11:00pm	Approval