

City of Las Vegas

AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: NOVEMBER 18, 2020

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: ANTHONY GONZALEZ - OWNER: SMOKE RANCH ENTERPRISES, INC

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
20-0136-VAR1	Staff recommends DENIAL, if approved subject to conditions:	
20-0136-SUP1	Staff recommends DENIAL, if approved subject to conditions:	20-0136-VAR1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 37

NOTICES MAILED 106 (By City Clerk)

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

20-0136-VAR1 CONDITIONS

Planning

1. 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.
2. 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.
3. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

20-0136-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Open Air Vending / Transient Sales Lot use, except as amended herein.
2. Approval of and conformance to the Conditions of Approval for Variance (20-0136-VAR1) shall be required, if approved.
3. All proposed signage shall be permitted and in conformance with Title 19 requirements.
4. The site must be kept free of any litter or debris at all times

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5. 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.
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 Department of Building and Safety.
7. 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.
8. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Special Use Permit and Variance request to allow a food trailer operation within an existing commercial development that utilizes two required parking spaces at 6884 North Hualapai Way.

ISSUES

- Special Use Permit (20-0136-SUP1) is requested for a proposed Open Air Vending/Transient Sales Lot use in the C-1 (Limited Commercial) zoning district. Staff does not support the request.
- Variance (20-0136-VAR1) is requested to allow 106 parking spaces where 108 are required. Staff does not support the request.

ANALYSIS

The subject site is zoned C-1 (Limited Commercial) and subject to Title 19 development standards. It is home to an existing commercial development consisting of a Convenience Store with Fuel Pumps and a Canopy; a Full Service Car Wash Facility; a General Retail Store; a Coffee Shop with Drive-Through; a Restaurant with Drive-Through; and a 699-unit Mini-Storage Facility on 5.19 acres located at the northeast corner of Deer Springs Way and Hualapai Way. The applicant now proposes to add an Open Air Vending/Transient Sales Lot (Food Trailer) use to the subject site.

The Open Air Vending/Transient Sales Lot use is defined 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.” The proposed use meets the definition, as the applicant is proposing to operate as a mobile food vendor at the subject site.

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The Conditional Use Regulations for this use include:

1. Except as provided in this Conditional Use Regulation 1, no signage is allowed, including temporary signage. Signage that is allowed by this Conditional Use Regulation 1 is not subject to the sign regulations and processes of Title 19 that otherwise would apply, except as specifically provided. The limited signage allowed by this Conditional Use Regulation 1 is as follows:
 - a. 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).
 - b. In the case of a Farmer's Market, on-premises market event signage is permitted, but shall be limited to a single sign of no more than 32 square feet. Individual vendor signage is permitted, but is limited to one sign per vendor, and not to exceed 15 square feet per vendor space. All signage is prohibited at any time other than during a market event.

If approved, the proposed use will have to meet this requirement by condition of approval.

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

If approved, the proposed use will have to meet this requirement by condition of approval.

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

The proposed use meets this requirement, as the mobile food trailer will not be in the public right-of-way.

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:
 - a. Has been approved by means of a Site Development Plan Review;
 - b. Is within the plaza area of a commercial lot; or
 - c. Is in accordance with Conditional Use Regulation 9 below.

The proposed use meets this requirement, as no proposed permanent structures/furniture are depicted on the submitted site plan.

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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 use does not meet this requirement as the applicant has requested a Variance to utilize two required parking spaces for the proposed food trailer.

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 use does not meet this requirement as the subject site is located approximately 104 feet away from a multi-family residential development. As this requirement is not met, approval of a Special Use Permit is required.

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;
 - b. No such vending is permitted on undeveloped lots or developed lots with unoccupied structures or unpaved surfaces;
 - c. No such vending is permitted within landscaped areas;
 - 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 these 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;
 - e. At a location other than the plaza area of a commercial lot, vending operations shall comply with required building setbacks for that location;
 - 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
 - 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.

This requirement is met, as per the submitted justification letter and plans, the applicant complies with each requirement.

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8. For Mobile Food Vending, in addition to Conditional Use Regulations 1 through 6:
 - a. No vendor may operate on any one parcel, lot or commercial subdivision for more than 4 hours within any 24-hour period;
 - b. No more than two vendors are permitted on one parcel, lot or commercial subdivision within any 24-period;
 - c. No vendor may operate within a required loading zone except as approved in conjunction with a Special Event Permit;
 - d. Such vending is permissible on undeveloped lots, or developed lots with unoccupied structures or unpaved surfaces, but only to the extent that such vending complies with all applicable air quality standards adopted by the Clark County Department of Air Quality; and
 - e. On unpaved lots, such vending is limited to a maximum disturbance area (including vehicles, parking and customer areas) of 5,000 square feet, regardless of the overall lot size, unless a greater disturbance area is approved in connection with a dust mitigation permit from the Clark County Department of Air Quality.

This requirement does not apply, as the proposed use applies to Requirement 7.

9. For Farmer's Markets, in addition to Conditional Use Regulations 1 through 6:
 - a. The use is not permitted in the O (Office) Zoning District;
 - b. The use is not permitted on undeveloped lots or developed lots with unoccupied structures or unpaved surfaces;
 - c. The use is not permitted within landscaped areas;
 - d. At a location other than the plaza area of a commercial lot, the use shall comply with required building setbacks for that location;
 - e. On any lot that is adjacent to a residentially zoned lot, the hours of operation of the use shall be limited to the period between 10 a.m. and 8 p.m.; and
 - f. No supply or drainage pipes or power supply cords that pertain to the use may be placed on or across surface parking or unimproved areas, or be attached to adjoining or nearby buildings, unless the use 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.
 - g. The use may include the installation of use of temporary booths, tables, chairs, and similar structures.

This requirement does not apply, as the proposed use applies to Requirement 7.

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Staff is not able to support the entitlement requests as the minimal conditional use regulations set forth by Title 19.12 were established in order to allow the Open Air Vending/Transient Sales Lot use to operate in a harmonious manner with surrounding land uses. Therefore, staff recommends denial of both entitlement requests. If approved, they will be subject to conditions.

FINDINGS (20-0136-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:

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 utilize two required parking spaces for their proposed use. Choosing another location with adequate parking 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 (20-0136-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:

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- 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 due to the requested utilization of required parking spaces on property that already has several other uses.

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

The subject site is not physically suitable to allow an additional use that takes up required parking spaces.

- 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 from Deer Springs Way, an 80-foot Collector and Hualapai Way, a 100-foot Primary Arterial, as classified by the Master Plan of Streets and Highways. This roadway is adequate in size to accommodate 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 use will be subject to business license review and periodic inspection, thereby safeguarding the public health, safety and general welfare.

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

The proposed use does not meet the Conditional Use Regulations set forth by Title 19.12, thus requiring an approved Special Use Permit in order to operate on the proposed site.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
01/20/16	City Council approved Annexation to the city (ANX-61543) of 5.39 acres on the northeast corner of Deer Springs Way and Hualapai Way
10/19/16	City Council approved a General Plan Amendment (GPA-64884) to change the General Plan from R (Rural Density Residential) to GC (General Commercial) on 5.19 acres at the northeast corner of Deer Springs Way and Hualapai Way.

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Related Relevant City Actions by Planning, Fire, Bldg., etc.	
10/19/16	City Council approved a Rezoning (ZON-64885) from R-E (Residence Estates) to C-2 (General Commercial) on 5.19 acres at the northeast corner of Deer Springs Way and Hualapai Way.
12/13/16	Planning Commission approved a Site Development Review plan (SDR-67484) for General Retail Store, Other Than Listed (Convenience Store).
06/12/18	Planning Commission approved Special Use Permit (SUP-73188) to allow a proposed 3,825 square-foot Beer/Wine/Cooler Off-Sale Establishment use at 6890 North Hualapai Way.
10/13/20	<p>The Planning Commission unanimously voted to recommend APPROVAL on the following Land Use Entitlement project requests on 1.00 acre at 6890 North Hualapai Way (APN 125-19-213-005), C-1 (Limited Commercial) Zone, Ward 6 (Fiore).</p> <ul style="list-style-type: none"> • 20-0136-VAR1 - TO ALLOW 106 PARKING SPACES WHERE 108 ARE REQUIRED. • 20-0136-SUP1 - TO ALLOW AN OPEN AIR VENDING/TRANSIENT SALES LOT USE.

Most Recent Change of Ownership	
09/05/17	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
10/16/17	A building permit (#PRC-70721) was issued for a car wash and onsites at 6890 North Hualapai Way. The permit received its final inspection on 10/16/17.
01/04/18	A building permit (#C-343254) was issued for onsites with a trash enclosure and onsite electrical at 6890 North Hualapai Way. The permit received its final inspection on 12/12/18.
	A building permit (#C-343255) was issued for a convenience store and car wash at 6890 North Hualapai Way. The permit received its final inspection on 12/21/18.
12/13/18	Business License (#P66-00090) was issued for a Beer Wine Cooler Off-Sale use at 6890 North Hualapai Way.
	Business License (#G66-02634) was issued for a Car Wash use at 6890 North Hualapai Way.
	Business License (#G66-02635) was issued for a Convenience Store use at 6890 North Hualapai Way.

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Pre-Application Meeting

08/11/20	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a proposed Special Use Permit and Variance.
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Neighborhood Meeting

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

Field Check

09/17/20	Staff conducted a routine field check and found an existing commercial development with several uses. No issues were noted.
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Details of Application Request

Site Area

Net Acres	1.00
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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	General Retail, Other Than Listed	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
East	Undeveloped	RL (Residential Low) - Clark County	R-E (Rural Estates Residential District) - Clark County
West	Multi-Family Residential	PCD (Planned Community Development)	PD (Planned Development)

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<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
No Applicable Special Area or Overlay Districts	N/A
<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	Y

DEVELOPMENT STANDARDS

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Deer Springs Way	Major Collector	Master Plan of Streets and Highways	40	Y
Hualapai Way	Primary Arterial	Master Plan of Streets and Highways	80	Y

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Pursuant to Title 19.08, 19.12 and SDR-67484, 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	
Restaurant with Drive-Through	2,061 SF	1:50 Public Seating/Waiting	10				
		1:200 Remaining	8				
Restaurant with Drive-Through	2,220 SF	1:50 Public Seating/Waiting	28				
		1:200 Remaining	5				
Car Wash, Full Service	2,300 SF	1:150	16				
Mini-Storage Facility	699 Units	1:50 Units Plus 5	19				
General Retail, Other Than Listed	3,825 SF	1:175	22				
TOTAL SPACES REQUIRED			108		106		N*
Regular and Handicap Spaces Required			103	5	101	5	N*
Percent Deviation			2%				

*The applicant has requested a Variance to allow the utilization of two required parking spaces.