



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: JULY 13, 2021
 DEPARTMENT: PLANNING
 ITEM DESCRIPTION: APPLICANT/OWNER: ALMON MYLES

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

| CASE NUMBER | RECOMMENDATION | REQUIRED FOR APPROVAL |
|---------------------|---------------------------------------------------|------------------------------|
| 21-0039-SUP1 | Staff recommends APPROVAL, subject to conditions: | |

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

NOTICES MAILED 134

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

21-0039-SUP1 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, as well as submitted as part of any business license application.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Special Use Permit to allow a Community Residence at 3408 Bonn Court.

ISSUES

- A Community Residence is a Conditional land use in the R-1 (Single Family Residential) zoning district.
- Per Title 19.12, Conditional Use Regulation Number 1 for the Community Residence use states that a "Community Residence may not be located closer than 660 feet to another Community Residence."
- The proposed site is 649 feet away from another existing Community Residence located at 5217 Gowan Road; therefore a Special Use Permit is required per LVMC 19.12.040.

ANALYSIS

The applicant is proposing a Community Residence use at 3408 Bonn Court, a 1,884 square-foot single-family, detached residence zoned R-1 (Single Family Residential). The subject residence is a three-bedroom, two-bathroom, single-story detached residential home.

The Community Residence use is a Conditional Use in the R-1 (Single Family Residential) zoning district. This location does not meet all of the Conditional Use Regulations listed in Title 19.12. Conditional Use Regulation 1 requires Community Residences to be at least 660 feet away from one another. A Community Residence is currently licensed at 5217 Gowan Road, which is 649 feet away from the subject site. Pursuant to Title 19.12.040, when one or more Conditional Use Regulations cannot be met, a Special Use Permit is required to establish the use

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The Community Residence use is defined as “A residential family-like living arrangement for five to 10 unrelated individuals with disabilities who are in need of the mutual support furnished by other residents, as well as the support services, if any, provided by the operator of the Community Residence. Residents may be self-governing or supervised by a sponsoring entity or its staff which furnishes habilitative or rehabilitative services related to the needs of the residents. Interrelationships among residents are an essential component of a Community Residence. A Community Residence shall be considered a residential use of property for purposes of all zoning and building codes. However, the Fire Marshal, pursuant to and consistent with the City’s Fire Code, may require enhanced fire protection, including the installation of fire sprinklers and other mitigating measures, where one or more residents has a lessened ability to ambulate adequately. The use includes a Family Community Residence and a Transitional Community Residence, but does not include any of the following:

1. Senior Citizen Apartment;
 2. Individual Care Center;
 3. Convalescent Care Facility/Nursing Home;
 4. Facility for Transitional Living for Released Offenders;
 5. Facility to Provide Testing, Treatment, or Counseling for Drug and Alcohol Abuse;
 6. Hospice;
 7. Sex Offender Counseling Facility;
 8. Boarding House or Rooming House;
 9. Any other group living arrangement for unrelated individuals who are not disabled;
- or
10. Any of the following, as defined by NRS Chapter 449:
 - a. Facilities for the Treatment of Drug and Alcohol Abuse;
 - b. Modified Medical Detoxification Facilities;
 - c. Transitional Living Facilities for Released Offenders;
 - d. Facility for the Treatment of Narcotics; or
 - e. Community Triage Center.”

The Minimum Conditional Use Requirements for this use include:

1. Except as otherwise provided in Regulations 2 and 3, a Community Residence may not be located closer than 660 feet to any other Community Residence (measured from property line to property line).

The proposed use does not meet this requirement, as there is another Community Residence that is located within 660 feet measured from the property line of the proposed use. The property at 5217 Gowan Road has been operating as a Community Residence since 1998. This property is 649 feet away from the subject site.

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2. Where there is a street, freeway, or drainage channel at least 100 feet wide between the proposed Community Residence and an existing Community Residence, the minimum separation requirement is reduced to 100 feet.

The following requirement is not applicable, as there is no street, freeway, or drainage channel 100 feet or larger between the subject site and the existing Community Residence.

3. When the population of a proposed Community Residence is of such a nature that its location must be kept confidential for it to function successfully, such as a Community Residence for victims of domestic abuse, the minimum separation requirements set forth in Regulations 1 and 2 above shall not apply.

The following condition does not apply, as the operation of the proposed Community Residence does not require confidentiality.

4. A maximum of 2 persons who function as facility operator or support staff may reside in a Community Residence without being counted toward the 10-resident limit established for that use. Resident operator/support staff in excess of 2 shall be counted toward the 10-person limit.

A Condition of Approval has been added requiring the applicant to be in conformance with the Minimum Requirements of the Community Residence Use. The subject site will be held to licensing and inspection by the State of Nevada Bureau of Health Care Quality and Compliance (HCQC) and the Division of Public and Behavioral Health (DPBH).

5. A Community Residence shall comply with all public health and safety requirements including all Building and Fire Code requirements for the dwelling type in question.

The site will be subject to inspections for Building and Fire Code requirements ensuring the protection of public health and safety.

6. If Federal or State law or regulations require the proposed Community Residence to be licensed or certified, then the applicant must obtain that required license or certification before commencing operation of the Community Residence

If approved, the applicant will need to obtain a license from the State of Nevada.

7. When located in an O, C-1, or C-2 Zoning District, a Community Residence may not be established unless it is part of a mixed-use development.

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This condition does not apply to the subject site, as it is located in an R-1 (Single Family Residential) zone and not part of a mixed-use development.

8. The operator of the Transitional Community Residence:
 - a. Must require residents to be actively and continuously enrolled in an offsite support program, including without limitation Alcoholics Anonymous or an equivalent program, or
 - b. Must prohibit the use of alcohol and illegal drugs by residents; and
 - c. Upon request and with reasonable notice, must produce evidence satisfactory to the Director or the Code Enforcement Manager residents are in compliance with this Regulation.

The subject site will be held to licensing and inspection by the State of Nevada Bureau of Health Care Quality and Compliance (HCQC) and the Division of Public and Behavioral Health (DPBH). Additionally, the subject site will be subject to inspection by Code Enforcement ensuring this condition is met.

9. Occupancy within a Community Residence shall not be made available to any individual whose tenancy would constitute a direct threat to the health and safety of individuals or would result in substantial physical damage to the property of others. The fact that a person is sentenced or referred to a Transitional Community Residence by a judge does not, without other evidence of a person's actual danger to other persons or property, establish that the person is a direct threat to the health and safety of others

The subject site will be held to licensing and inspection by the State of Nevada Bureau of Health Care Quality and Compliance (HCQC) and the Division of Public and Behavioral Health (DPBH).

10. The Community Residence must be consistent with the scale and architectural character of the neighborhood.

The subject site is a single-family detached dwelling that is consistent in scale and architectural character with the established residential neighborhood.

11. The Special Use Permit provisions of LVMC 19.04.040(B) shall not apply to Regulations 5 through 10 above.

Regulations 5 through 10 above are mandatory and must be met to be eligible for a Special Use Permit.

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12. In case of a Special Use Permit application that is filed as a consequence of not qualifying for conditional use treatment under Regulations 1 and 2 above, the application must be approved unless the Planning Commission or City Council determines that one or more of the following conditions would occur:
- The building to be occupied as a Community Residence would be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood.
 - The proposed Community Residence, together with existing Community Residences, would alter the residential character of the neighborhood by creating an institutional atmosphere due to the concentration of the Community Residences on a block or adjoining blocks; or
 - The application or Community Residence does not or would not comply with Regulations 5 through 10 above.

As the Special Use Permit application is a result of the applicant unable to meet Conditional Use Regulation 1 above, the Planning Commission or City Council will determine if the proposed Community Residence meets the three conditions listed above.

A Conditional Use Verification could not be approved due to the 660-foot distance separation requirement not being met. In a justification letter date stamped on 03/16/21, the applicant states that they are requesting his Special Use Permit to provide service to individuals with mental health diagnoses such as bipolar disorders, depression, and schizophrenia.

As the subject site narrowly misses the distance separation requirement by 11 feet, there is no direct vehicular access between the two sites, and is separated by Jay Avenue, a 58-foot local street, staff finds that proposed use can be conducted in a harmonious and compatible manner with the existing neighborhood and surrounding land uses. For these reasons, staff recommends approval of this Special Use Permit. If this application is denied, the applicant will be unable to operate a Community Residence at this location.

FINDINGS (21-0039-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:

- 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.**

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The proposed land use is a family-like living arrangement within an existing single-family residence located in an established residential neighborhood. The proposed land use can be conducted in a manner that is harmonious and compatible with the existing surrounding neighborhood.

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

The subject site is an existing 1,884 square-foot single-family residence located with an existing residential neighborhood. The proposed land use is a family-like living arrangement for five to ten unrelated individuals with disabilities who are in need of the mutual support furnished by other residents, as well as the support services, if any, provided by the operator of the Community Residence. The subject site is physically suited for the proposed Community Residence.

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.

Bonn Court is a 50-foot wide local street adequate in size to meet the requirements of the proposed Community Residence.

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 Community Residence use will be subject to state regulations and inspections to ensure the public health, safety, or general welfare is not compromised.

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

The proposed Community Residence does not meet Condition Number One (1) of Title 19.12 requiring that "a Community Residence may not be located closer than 660 feet to any other Community Residence." The subject site is located 649 feet away from another Community Residence and therefore a Special Use Permit is required. Staff supports this request as the proposed site is separated by Jay Avenue, a 58-foot local street, there is no direct vehicular access between the two sites, and narrowly misses the distance separation requirement by 11 feet. Therefore, the approval of this application will not alter the residential character of the area.

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BACKGROUND INFORMATION

| <i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i> | |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 07/14/94 | The City Council approved a Rezoning (Z-0067-94) from: R-E (Residence Estates) to: R-1 (Single Family Residential) and R-D (Single Family Residential-Restricted) at the southwest corner of Jay Avenue and Thom Boulevard. The Planning Commission recommended approval |
| 01/21/21 | A Conditional Use Verification (100215-CUV) was denied administratively by staff for a proposed Community Residence Use at 3408 Bonn Court |
| 04/13/2021 | The Planning Commission voted (7-0) to hold in ABEYANCE 21*0039-SUP1 to the July 13, 2021 Planning Commisison meeting. |

| <i>Most Recent Change of Ownership</i> | |
|-----------------------------------------------|------------------------------------------------|
| 09/14/11 | A deed was recorded for a change in ownership. |

| <i>Related Building Permits/Business Licenses</i> | |
|----------------------------------------------------------|-----------------------------------------------------|
| 1997 | A single-family, detached dwelling was constructed. |

| <i>Pre-Application Meeting</i> | |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01/28/21 | A pre-application meeting was held with the applicant to discuss the submittal requirements for a Special Use Permit pertaining to a proposed Community Residence use. |

| <i>Neighborhood Meeting</i> | |
|------------------------------------------------------------|--|
| A neighborhood meeting was not required, nor was one held. | |

| <i>Field Check</i> | |
|---------------------------|-----------------------------------------------------------------------------|
| 03/08/21 | A routine field check was conducted by staff; nothing was noted of concern. |

| <i>Details of Application Request</i> | |
|----------------------------------------------|------|
| <i>Site Area</i> | |
| Net Acres | 0.16 |

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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 | Single Family, Detached | R (Rural Density Residential) | R-1 (Single Family Residential) |
| North | | | |
| South | | | |
| East | | DR (Desert Rural Density Residential) | R-D (Single Family Residential-Restricted) |
| West | | R (Rural Density Residential) | R-1 (Single Family Residential) |

| <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> |
| A-O (Airport Overlay) District (70 Feet) | Y |
| 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 | N/A |
| Project of Regional Significance | N/A |

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> |
|---------------------------|------------------------------------------------------|----------------------------------|------------------------------------------|----------------------------------------------|
| Bonn Court | Local Street | Title 13 | 50 | Y |

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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 | |
| Community Residence | 1 dwelling unit | 2 spaces per dwelling | 2 | | | | |
| TOTAL SPACES REQUIRED | | | 2 | | | 2 | |
| Regular and Handicap Spaces Required | | | 2 | 0 | 2 | 0 | Y |