



**AGENDA MEMO - PLANNING**

**PLANNING COMMISSION MEETING DATE: JULY 13, 2021**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT/OWNER: CARDAN LINDELL NORTH, LLC**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>21-0255-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	
<b>21-0255-SUP1</b>	Staff recommends DENIAL, if approved subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      11

**NOTICES MAILED**                                              141

**PROTESTS**                                                              0

**APPROVALS**                                                              0

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

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**21-0255-VAR1 CONDITIONS**

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**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.

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**21-0255-SUP1 CONDITIONS**

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**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.

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

**PROJECT DESCRIPTION**

This is a Variance and Special Use Permit request to allow a wall featuring razor wire that exceeds the maximum height allowed and an outdoor speaker security system at 5540 West Sahara Avenue.

**ISSUES**

- A Motor Vehicle Sales (New) use is permitted in the C-2 (General Commercial) zoning district with the approval of a Conditional Use Permit.
- Special Use Permit (21-0255-SUP1) is requested to allow a Motor Vehicle Sales (New) use as the applicant would like to waive a minimum conditional use regulation. Staff does not support the request.
- Variance (21-0255-VAR1) to allow an increased fence height with razor wire is the result of Code Enforcement Case #CE21-01156.
- Department of Planning Staff conducted a routine field check on June 3, 2021 and found shopping bags and trash stuck in the existing razor wire fence.

**ANALYSIS**

The subject site is zoned C-2 (General Commercial) and subject to Title19 development standards. It is home to an existing Motor Vehicle Sales (New) establishment which has been in operation since 2015 under Business License #G63-07381. An existing church abuts the property to the north and two lots with single family dwellings are located on property adjacent to the west. Per the submitted justification letter, the applicant now requests the subject entitlements due to an increase in crime activity at the dealership. Alleged crimes include theft, vandalism and trespassing.

The Department of Code Enforcement opened Case #CE21-01156 on March 25, 2021 for the installation of barbed wire fencing without a permit. The case remains open. In order to rectify the violation, the applicant requests approval of Variance (21-0255-VAR1) to keep the existing fence with razor wire. Per Title 19.08, the maximum perimeter wall height allowed is 10 feet and unless otherwise approved as part of an overall development plan, the following materials shall not be acceptable for use as screen or perimeter walls:

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- a. Chain link or open wire fencing (except as temporary construction fencing);
- b. Razor wire or barbed wire (except as may be approved under the procedures set forth in the City's Building Code);
- c. Corrugated metal;
- d. Bright colored plastic; and
- e. Untextured or unfinished concrete or block (CMU) walls.

The existing 11-foot tall fence exceeds the maximum height allowed and utilizes a non-acceptable material. As evidenced by a recent field check, razor wire material attracts and accumulates trash. The material is not appropriate for the subject location and staff recommends denial.

Per Title 19, the Motor Vehicle Sales (New) use is defined as, "A facility or area, other than an auto sales showroom, for the display and sale or leasing of new automobiles, trucks, motorcycles and motor scooters, but excluding mopeds. This use includes service bays and auto body shops which are incidental and accessory to the sales use." While the subject site is currently in operation as an Auto Dealership via a Conditional Use, the applicant requests Special Use Permit (21-0255-SUP1) in order to waive minimum conditional use regulation #2 which states, "The installation and use of an outside public address or bell system is prohibited." Per the submitted justification letter, the installation of a loudspeaker system is needed for additional security to address individuals who improperly access and enter the property. Due to the close proximity of existing single family dwellings, staff finds the outdoor speaker system would be a nuisance to the neighbors.

While it is noted that the applicant provided two Las Vegas Metropolitan Police Department records regarding forgery and battery at the subject site, staff finds that sufficient evidence has not been provided to support either entitlement request. There are alternative options to help deter crime such as the utilization of a security guard. Therefore, staff recommends denial of both entitlements. If approved, they will be subject to conditions.

**FINDINGS (21-0255-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."

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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.”

Sufficient evidence of a unique or extraordinary circumstance has not been presented, in that the applicant has created a self-imposed hardship by proposing to exceed the maximum height allowed with a prohibited material. Removal of the razor wire would allow conformance to 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 (21-0255-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.**

While the existing Motor Vehicle Sales (New) use compatible with the existing development in the surrounding area, the utilization of an outdoor speaker system would be a nuisance to the neighbors in the surrounding area.

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

While the subject site is physically suitable for a Motor Vehicle Sales (New) use, the utilization of an outdoor speaker system would be a nuisance to the neighbors in the surrounding area.

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- 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.**

Existing site access and circulation will not be impacted by this review, and will not negatively impact adjacent roadways or traffic.

- 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.**

Approval of this Special Use Permit would allow an audible nuisance to the adjacent residential neighbors, thereby compromising the public welfare.

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

There are no minimum Special Use Permit conditions listed for the Motor Vehicle Sales (New) use.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
08/04/04	The City Council approved a request to amend a portion of the Southwest Sector Plan of the General Plan (GPA-4549) from O (Office) and DR (Desert Rural Density Residential) to GC (General Commercial) on 1.11 acres adjacent to the west side of Lindell Road, approximately 450 feet north of Sahara Avenue. The Planning Commission and staff recommended approval.
08/04/04	The City Council approved a request for a Rezoning (ZON-4550) from P-R (Professional Office) zone and R-E (Residence Estates) zone to C-2 (General Commercial) zone on 1.11 acres adjacent to the west side of Lindell Road, approximately 450 feet north of Sahara Avenue. The Planning Commission and staff recommended approval.
	The City Council approved a request for a Variance (VAR-4553) to allow an 83-foot 1-inch Residential Adjacency setback where 100 feet is required on 4.15 acres adjacent to the northwest corner of Sahara Avenue and Lindell Road. The Planning Commission and staff recommended approval.

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<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
	The City Council approved a request for a Site Development Plan Review (SDR-4551) for a proposed 37,950 square-foot Motor Vehicle Sales (New) facility on 4.15 acres adjacent to the northwest corner of Sahara Avenue and Lindell Road. The Planning Commission and staff recommended approval.
07/20/05	The City Council denied a request for a Review of Condition (ROC-6575) for Condition Number 21 of an approved Site Development Plan Review (SDR-4551) to eliminate the condition which prohibits parking and display of vehicles in the buffer area at 5550 West Sahara Avenue. Staff recommended denial.
09/08/05	The Planning Commission approved a Variance (VAR-8348) for a 55-foot tall free standing sign where 40 feet is the maximum allowed at 5550 West Sahara Avenue. Staff recommended denial.
05/03/06	The City Council approved a request for a Variance (VAR-11759) to allow a proposed 130-foot tall flagpole where 40 feet is the maximum height allowed at 5550 West Sahara Avenue.
08/01/07	The City Council denied a Required Six Month Review (RQR-20054) of a Variance (VAR-11759) to allow a proposed 100-foot tall flagpole where 40 feet is the maximum height allowed at 5550 West Sahara Avenue. The flag was ordered to be removed.
05/04/16	The City Council approved a Site Development Plan Review (SDR-62647) for a 10,304 square-foot commercial building with a waiver to not orient the building towards the corner of the site. Staff had recommended approval.
11/16/16	The City Council approved Variance (VAR-66063) to allow a proposed 55-foot tall freestanding sign where 40 feet is the maximum height allowed. The Planning Commission recommended approval. Staff recommended denial.
01/23/17	Encroachment Agreement (L-ENCR-66247) was finalized to allow landscape in the Right-of-Way along Sahara Avenue.
11/20/17	Planning Staff administratively approved Site Development Plan Review (SDR-71919) for replanting of required landscaping at 5540 West Sahara Avenue.
03/25/21	Code Enforcement Case (#CE21-01156) was opened for the installation of barbed wire fencing without a permit. The case remains open.

<b><i>Most Recent Change of Ownership</i></b>	
11/01/02	A deed was recorded for a change in ownership.

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<b>Related Building Permits/Business Licenses</b>	
10/01/15	Business License (#G63-07381) was issued for an auto dealership use at 5550 West Sahara Avenue. The license remains active.
11/09/16	A building permit (#319412) was issued for a new car dealership building.

<b>Pre-Application Meeting</b>	
04/27/21	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a proposed Variance and Special Use Permit.

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

<b>Field Check</b>	
06/03/21	Staff conducted a routine field check and found an existing auto dealership. Existing razor wire was found along a portion of the perimeter walls. Trash and debris were found to be stuck in portions of the razor wire.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	4.01

<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	Motor Vehicle Sales (New)	MXU (Mixed Use)	C-2 (General Commercial) / P-O (Professional Office)
North	Church/House of Worship	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Motor Vehicle Sales (New)	CG (General Commercial) Clark County Designation	C-1 (Local Business) Clark County Designation

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<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>
East	Medical Office; Office, Other Than Listed	MXU (Mixed Use)	C-1 (Limited Commercial)
West	Financial Institution, Specified; Single Family Residential	MXU (Mixed Use)	C-2 (General Commercial)

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
No Applicable Master Plan Area	N/A
<b>Special Area and Overlay Districts</b>	<b>Compliance</b>
No Applicable Special Purpose or Overlay Districts	N/A
<b>Other Plans or Special Requirements</b>	<b>Compliance</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

*Pursuant to Title 19.08, the following standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Max. Perimeter Wall Height	10 Feet	11 Feet	N*

\*A Variance is requested to allow an increased wall height with razor wire.

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