

*City of Las Vegas*

**AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: JULY 20, 2022

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: FREMONT PROPERTIES, LLC

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
22-0111-EOT1	Staff recommends APPROVAL.	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 33

**NOTICES MAILED** 764

**PROTESTS** 0

**APPROVALS** 0

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

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**22-0111-EOT1 CONDITIONS**

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**Planning**

1. This approval shall expire on April 29, 2023 unless another Extension of Time is approved by the City of Las Vegas.
2. 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**

This is a request for an Extension of Time for a nonconforming Liquor Establishment (Tavern) use at 1930 Fremont Street, Suite A.

***CORRECTION:***

On July 20, 2022 this Extension of Time request was publicly heard on the discussion portion of the City Council agenda (item #59) and approved. Administratively, the application was handled as a "Consent Item," and public hearing notification postcards were not sent as required by NRS for public hearing applications. Therefore, staff is recommending this item be rescinded and re-heard at the July 20, 2022 City Council meeting. Staff is recommending approval of the Extension of Time.

**ISSUES**

- This is the 11th request for an Extension of Time for a legal nonconforming Liquor Establishment (Tavern) at this location.
- In 2021 the applicant (through a contractor) obtained a building permit for a gas line repair/tag and completed the work. Also in 2021, the applicant applied for interior demolition and repair work within the building; however, no permit has been issued.
- According to the applicant, a new manager for the building has been selected who is committed to reopening the space as a tavern. No specific time frame was given as to when the tavern could begin operation.

**ANALYSIS**

This is the 11th request for an Extension of Time for the legal, nonconforming use of a Liquor Establishment (Tavern) at this location, which is located adjacent to an existing restaurant. The existing tavern license was placed into nonoperational status on April 29, 2010. The use was legally established prior to the requirement for a Special Use Permit for a Liquor Establishment (Tavern) use, but it does not meet subsequently established distance separation requirements from six other taverns, a school and a church. The restaurant continues to operate under a valid license within 1930 Fremont Street, Suite B.

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On October 6, 2010, the City Council adopted Ordinance 6114, which allows for Extension of Time of an abandoned nonconforming use when the delay in reestablishment of the use is due to an economic hardship based on market conditions or other circumstances beyond the applicant's control. If approved, the Extension of Time request is not to exceed the duration of the applicable abandonment period, which is one year. In accordance with the ordinance, a public hearing is required so as to notify neighboring homeowners and registered associations, providing the opportunity for comment. The applicant has filed extensions of time annually since 2011 to avoid expiration of the use, with the exception of 2020 during the COVID-19 pandemic.

In May 2020, the City Council adopted a resolution (R-22-2020) allowing, among other concerns, applicants with legal nonconforming uses to file for Extensions of Time either prior to the entitlement expiration date or no later than 30 days of the termination of the State of Emergency declared by the State of Nevada regarding the COVID-19 pandemic, whichever was later. A separate resolution (R-3-2022) adopted on February 2, 2022 ended the tolling period and set a 30-day grace period for filing; the applicant is filing this Extension of Time pursuant to R-3-2022. If approved, the new expiration date will be in 2023 on the anniversary date of abandonment of the use.

The applicant has stated that a new manager has been found to operate the building after many months of marketing. The new manager is committed to opening a tavern at this location and making the necessary improvements to do so, although no date was given as to when these tasks would be completed.

Staff conducted a field check of the site and found a shuttered, unoccupied building with an "open" sign in the window of Suite B. A wrought iron fence encloses the storefront portion of the building. A piece of furniture was located on the sidewalk along Fremont Street. No graffiti was detected on the building or onsite signage. No homeless activity on the property was observed, and the site was free of trash and debris.

**FINDINGS (EOT-78630)**

Ordinance 6114 states, "An Extension of Time may be granted by the City Council only upon clear and convincing evidence of qualifying hardship and a determination that the public health, safety and welfare will not be jeopardized." Since the last extension of time approval and during the pandemic State of Emergency period the applicant has made a good faith effort to secure a building tenant and reestablish the tavern use on this site. Staff therefore recommends approval of the requested Extension of Time, subject to conditions. If denied, the nonconforming Liquor Establishment (Tavern) use would be deemed to be permanently abandoned as of April 29, 2021 and could not be reestablished on this site unless it conforms to all current Title 19 requirements.

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**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
10/30/08	A Code Enforcement case (CE-71110) was processed for trash and debris scattered throughout the property at 1930 Fremont Street. The case was resolved on 11/24/08.
07/07/09	A Code Enforcement case (CE-79660) was processed for an iron fence installed without permits around the front of the property at 1930 Fremont Street. The case was finalized on 08/19/09.
10/06/10	The City Council adopted Bill 2010-40 as Ordinance 6114, which authorized under certain circumstances an extension of time regarding the expiration of certain nonconforming uses due to economic hardship.
05/18/11	The City Council approved a request for an Extension of Time (EOT-41219) for a nonconforming Liquor Establishment (Tavern) use at 1930 Fremont Street. Department of Planning staff recommended denial.
06/06/12	The City Council approved a request for a second Extension of Time (EOT-45152) for a nonconforming Liquor Establishment (Tavern) located at 1930 Fremont Street. Department of Planning staff recommended approval.
05/01/13	The City Council approved a request for a third Extension of Time (EOT-48842) for a nonconforming Liquor Establishment (Tavern) at 1930 Fremont Street. Department of Planning staff recommended denial.
09/11/13	A Code Enforcement case (CE-133174) was processed for trash, debris and tall weeds at 1930 Fremont Street. The case was resolved on 09/16/13.
12/23/13	A Code Enforcement case (CE-136389) was processed for trash and debris scattered throughout the property at 1930 Fremont Street, Suite A. The case was resolved on 01/08/14.
05/21/14	The City Council approved a request for a fourth Extension of Time (EOT-53405) for a nonconforming Liquor Establishment (Tavern) at 1930 Fremont Street. Department of Planning staff recommended denial.
07/07/14	A Code Enforcement case (CE-143239) was processed for no lights in the parking area, potholes in the parking area, dilapidated parking barriers and no fencing next to a vacant motel at 1930 Fremont Street, Suite A. The case was resolved on 09/25/14.
06/03/15	The City Council approved a request for a fifth Extension of Time (EOT-58882) for a nonconforming Liquor Establishment (Tavern) at 1930 Fremont Street. Staff recommended approval.

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<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
06/01/16	The City Council approved a request for a sixth Extension of Time (EOT-64310) for a nonconforming Liquor Establishment (Tavern) at 1930 Fremont Street. Staff recommended approval.
11/21/16	A Code Enforcement case (CE-172422) was processed for remodeling and construction work without a permit at 1930 Fremont Street, Suite A. The case was resolved on 11/21/16.
06/07/17	The City Council approved a request for a seventh Extension of Time (EOT-70188) for a nonconforming Liquor Establishment (Tavern) at 1930 Fremont Street. Staff recommended approval.
06/08/17	A Licensing Enforcement Case (BLE401525) was opened to verify a complaint regarding a homeless encampment on the property at 1930 Fremont Street, Suite B. The case was resolved 06/28/17.
10/25/17	A Code Enforcement case (CE-183622) was processed for a homeless encampment, trash and debris at 1930 Fremont Street. The case was resolved on 10/26/17.
06/20/18	The City Council approved a request for an eighth Extension of Time (EOT-73290) for a nonconforming Liquor Establishment (Tavern) use at 1930 Fremont Street. Staff recommended approval.
05/15/19	The City Council approved a request for a ninth Extension of Time (EOT-76209) for a nonconforming Liquor Establishment (Tavern) use at 1930 Fremont Street. Staff recommended approval.
09/30/19	A Code Enforcement case (CE19-03062) was processed for a complaint regarding trash, furniture, waste and overgrown weeds at 1930 Fremont Street. The case was resolved on 10/21/19.
10/06/19	The City Council approved a request for a General Plan Amendment (GPA-75814) to amend portions of the Southeast Sector Land Use Map of the General Plan From: C (Commercial) and MXU (Mixed Use) To: FBC (Form-Based Code) on approximately 226 acres in the Fremont East District generally located south of Interstate 515, west of Eastern Avenue, north of Carson Avenue, and east of Las Vegas Boulevard. The Planning Commission and staff recommended approval.

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<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
10/06/19	The City Council approved a request for a Rezoning (ZON-76747) from: C-1 (Limited Commercial), C-2 (General Commercial), R-5 (Apartment) R-4 (High Density), R-3 (Medium Density) and R-2 (Medium Low Density) to: T4-N (T4 Neighborhood), T4-MS (T4 Main Street), T4-C (T4 Corridor), T5-N (T5 Neighborhood), T5-MS (T5 Main Street) and T6-UC (T6 Urban Core) on approximately 226 acres in the Fremont East District generally located south of Interstate 515, west of Eastern Avenue, north of Carson Avenue, and east of Las Vegas Boulevard. The Planning Commission and staff recommended approval.
05/20/20	The City Council approved a request for a tenth Extension of Time (EOT-78630) for a nonconforming Liquor Establishment (Tavern) use at 1930 Fremont Street, Suite A. Staff recommended denial.
10/05/20	A Code Enforcement case (CE20-05404) was processed for a complaint regarding trash and vehicle parking at 1930 Fremont Street. The case was resolved on 11/25/20.
10/12/20	A Code Enforcement case (CE20-05492) was processed for a complaint regarding trash abandoned vehicles, overgrown weeds and a homeless encampment at 1930 Fremont Street. The case was resolved on 10/14/20.
11/29/21	A Code Enforcement case (CE21-05413) was processed for a complaint regarding trash, outdoor storage, high vegetation, construction waste and a homeless shelters at 1930 Fremont Street. The case was resolved on 02/07/22.

<b><i>Most Recent Change of Ownership</i></b>	
10/12/07	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
04/25/91	A business license (R10-00671) was issued for a restaurant at 1930 Fremont Street, Suite B. The license remains active.
	A business license (C08-01391) was issued for coin amusement machines at 1930 Fremont Street, Suite B. The license was marked out of business on 08/01/18.
	A business license (H02-01224) was issued for handbill and oral solicitation at 1930 Fremont Street, Suite B. The license remains active.

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<b>Related Building Permits/Business Licenses</b>	
06/24/96	A building permit (#96012678) was issued for a five square-foot wall sign at 1930 Fremont Street, Suite B. A final inspection was completed 07/11/96.
08/01/07	A business license (L16-00032) was issued for a tavern (Odyssey Tavern) at 1930 Fremont Street, Suite A. The license was marked as out of business on 04/29/10.
02/22/08	A business license enforcement case (Service#327264) was processed for bartender failure to obtain a work card, server with no work card, no health card and no alcohol awareness certification, as well as two security guards working without alcohol awareness certification and no employee listing at 1930 Fremont Street. The case was resolved on 06/26/08.
08/19/09	A building permit (C-145873) was issued for an ornamental iron fence installed around the front of the property at 1930 Fremont Street. The permit was finalized on 09/22/09.
12/03/09	A business license inspection (Service#562290) was conducted to confirm the closure of a tavern and removal of alcoholic beverages at 1930 Fremont Street. The inspection was finalized 12/03/09.
11/25/13	A building permit (F-248357) was issued for a kitchen hood fire suppression system at 1930 Fremont Street, Suite B. The permit was finalized on 06/17/14.
02/24/14	A business license (L62-00023) was issued for a tavern (Heritage II) at 1930 Fremont Street, Suite A. The business never physically opened, but the license was issued to place in nonoperational status. The privilege license was labeled as L16-93954. The license was sold and this location was subsequently marked out of business on 02/01/18.
07/07/21	A building permit (C21-02845) was issued for a gas line repair or tag at 1930 Fremont Street. A final inspection was completed 07/08/21.
09/21/21	Application was made for a building permit (C21-03994) for interior insulation, drywall and repairs at an existing restaurant at 1930 Fremont Street. A permit has not been issued and may expire on 03/20/22 if no action is taken. No action has been taken as of 06/14/22.

**Pre-Application Meeting**

A pre-application meeting was not required, nor was one held.

**Neighborhood Meeting**

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



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<b>Field Check</b>	
03/19/22	The site contains a shuttered, unoccupied building with an “open” sign in the window of Suite B. A wrought iron fence encloses the storefront portion of the building. A piece of furniture was located on the sidewalk (public right-of-way) along Fremont Street. The site was free of trash and debris. No graffiti was detected on the building or onsite signage. No homeless activity on the property was observed.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.66

<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	Restaurant	FBC (Form-Based Code)	T4-C (T4 Corridor)
	Liquor Establishment (Tavern) [nonoperational]		
North	Vacant	FBC (Form-Based Code)	T4-C (T4 Corridor)
	General Retail Store, Other Than Listed		
South	Multi-Family Residential	MXU (Mixed Use)	R-4 (High Density Residential)
			C-2 (General Commercial)
East	Single Family, Attached [Townhomes]	FBC (Form-Based Code)	T4-C (T4 Corridor)
West	Hotel, Motel or Hotel Suites	FBC (Form-Based Code)	T4-C (T4 Corridor)

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
2050 Master Plan Area: Downtown Las Vegas	N/A
Vision 2045 Downtown Las Vegas Master Plan (Fremont East District)	Y
Rafael Riviera Walkable Neighborhood Plan	Y

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<b><i>Special Area and Overlay Districts</i></b>	<b><i>Compliance</i></b>
DTLV-O (Downtown Las Vegas Overlay) District – Area 3	Y
LW-O (Live/Work Overlay) District	N/A
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></b>
Trails	N/A
Las Vegas Redevelopment Plan Area – Area 1	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A