

**AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: NOVEMBER 16, 2022

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: NB CUBED, LLC

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
22-0423-SUP1	Staff recommends APPROVAL, subject to conditions:	22-0423-SUP2 22-0423-SDR1
22-0423-SUP2	Staff recommends APPROVAL, subject to conditions:	22-0423-SUP1 22-0423-SDR1
22-0423-SDR1	Staff recommends APPROVAL, subject to conditions:	22-0423-SUP1 22-0423-SUP2

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 24**NOTICES MAILED** 522 (by City Clerk)**PROTESTS** 4**APPROVALS** 0

**** CONDITIONS ****

22-0423-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Auto Smog Check use.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (22-0423-SDR1) and Special Use Permit (22-0423-SUP2) shall be required, if approved.
3. 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.
4. 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.
5. 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.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

22-0423-SUP2 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Drive Through use.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (22-0423-SDR1) and Special Use Permit (22-0423-SUP1) shall be required, if approved.
3. 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.
4. 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.
5. 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.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

22-0423-SDR1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (22-0423-SUP1) and Special Use Permit (22-0423-SUP2) shall be required, if approved.
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 development shall be in conformance with the site plan and landscape plan, date stamped 08/17/2022, and the building elevations, date stamped 09/20/2022, except as amended by conditions herein.
4. 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
7. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

8. The sidewalks adjacent to this site shall meet Public Right-of-Way Accessibility Guidelines (PROWAG) in accordance with code requirements of Title 13.56.040 to the satisfaction of the City Engineer concurrent with development of this site. Grant any Pedestrian Access Easement needed to complete this requirement.

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9. Coordinate with the Environmental Compliance & Enforcement staff of the Department of Public Works to locate any required grease interceptor and sand/oil interceptors in acceptable locations prior to submittal of sewer-related plans. Comply with the recommendations and requirements of the Environmental Compliance & Enforcement staff prior to issuance of permits. The team may be contacted at 702-229-2338 or emailed at ece@lasvegasnevada.gov.
10. A Traffic Impact Analysis must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits, submittal of any construction drawings or the recordation of a Map subdividing this site, whichever may occur first. The Traffic Impact Analysis shall also include a pedestrian circulation/access plan to identify nearby pedestrian attractors and recommend measures to accommodate pedestrians, such as but not limited to pedestrian access, crosswalk, pedestrian activated flashers and temporary sidewalks. Comply with the recommendations of the approved Traffic Impact Analysis prior to occupancy of the site. Phased compliance will be allowed if recommended by the approved Traffic Impact Analysis. No recommendation of the approved Traffic Impact Analysis, nor compliance therewith, shall be deemed to modify or eliminate any condition of approval imposed by the Planning Commission or the City Council on the development of this site.
11. A Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits or submittal of any construction drawings, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Site Development Plan Review for five new structures, converting surplus, and underutilized parking into useable square-footage for an existing shopping center at 3441 West Sahara Avenue. This will include three new 'pods' featuring drive through restaurants, a smog check station, and a building that is meant to provide restrooms and storage space for the restaurant pods.

ISSUES

- The applicant is requesting a Special Use Permit for an Auto Smog Check use. Staff supports this request.
- The applicant is requesting a Special Use Permit for a Drive Through use. Staff supports this request.
- The applicant is requesting a Site Development Plan Review for the addition of five structures totaling 3,672 square feet to an existing shopping center. Staff supports this request.
- The City has adopted goals in the 2050 Master Plan to add more tree canopy within the City. Due to the proposal to add 35 more trees and to develop an underutilized parking area, staff support the requests for the Special Use Permits and the Site Development Plan Review.

ANALYSIS

The subject site is located on southwest corner of Sahara Avenue and Tamrich Drive. Surrounding uses include a church, offices, financial institutions, multi-family residential, and assisted living apartments. The area to the south of the proposed addition, on the same parcel, is a 27,624 square-foot shopping center with retail, medical, restaurant, and service uses.

The parcel is zoned C-1 (Limited Commercial) with NMX-U (Neighborhood Mixed Use Center) General Plan land use. According to Title 19, the C-1 District "is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments." The NMX-U land use designation supports lower intensity transit-oriented development and neighborhood scale mixed-use developments.

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The proposal includes three restaurants (tenants to be decided) consisting of 600 square-feet each and will serve customers through walk-up service windows and vehicle drive-through lanes only. The proposal also includes a 72 square-foot smog check station, and a 1,800 square-foot office space with restrooms for the restaurant workers. The proposal meets all landscape buffer requirements for the drive through, except for a portion of the buffer for one of the drive through lanes on the west side of the property that tapers to five feet where eight feet is required. The applicants are requesting a Special Use Permit, due to the Drive Through use not meeting landscape buffering standards where the buffer tapers to five feet. Staff finds this to be minor in nature and will not negatively impact the area as the landscape materials are still being provided for.

The applicants are also requesting a Special Use Permit for an Auto Smog Check use with a 72 square foot building, where Title 19 requires a 200 square foot building. Staff also finds this to be minor in nature as the applicant has indicated that use can be properly performed in a smaller foot print.

The West Sahara Avenue commercial corridor consists largely of auto-dependent type developments such as shopping centers and “strip malls.” Though the NMX-U land use designation, along with the other mixed-use and transit-oriented development land use categories, fosters future pedestrian-friendly development with a heightened sense of quality of place. Some of the goals of transit-oriented development are safer pedestrian and bicycle environments, improved accessibility for all (particularly for the less able), more convenient access to businesses for local residents, and mitigation of traffic congestion and emissions. This type of development supports expanded multi-modal transit options in the future, in tandem with better land utilization in a virtuous development cycle.

The subject site is located within Redevelopment Area 2 whose goals include “*to replan, redesign and develop areas which are stagnant or improperly used.*” The revitalize of an underutilized asphalt parking area supports this goal while eliminating contributing factors to the heat island effect the city is currently enduring.

One of the goals outlined in the 2050 City of Las Vegas Master Plan is to prioritize the increase in tree canopy across all areas of the City for multiple public health and environmental benefits. This goal includes the planting of “60,000 ‘Bulletproof’ native and adaptive trees on public and private property that are heat, cold, and wind tolerant; water efficient; low maintenance; noninvasive, and pest and disease resistant.” The planting of trees improves air quality and reduces the urban heat island impacts felt across the City due to the lack of trees. Planting trees does not negatively impact the existing water issues the entire southwest is enduring right now. In fact, the planting of heat tolerant, desert species use less water and reduces the heat island effect that ultimately requires the consumption of more water and energy.

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Staff needed to take into consideration both the future land use goals vis-à-vis the NMX-U land use designation, along with the City's goals to plant more trees. Though the proposed development continues auto-oriented attributes, which the NMX-U land use aims to transition away from, the proposed development also adds 35 trees to an underutilized parking area and revitalizes an area that has grown stagnant over the years. Therefore, staff is in support of the proposed development.

Special Use Permit (22-0243-SUP1) for a Drive Through Use

The Drive Through use is defined as "The use of a dedicated drive lane that, incidental to a principal use, provides access to a station, such as a window, door or mechanical device, from which occupants of a motor vehicle receive or obtain a product or service." The proposed use meets the definition because it is a development that consists of three drive through restaurants.

The Conditional Use Requirements for this use include:

1. A single-station drive-through shall have a stacking lane that will accommodate a minimum of six vehicles, including the vehicle at the station. A multiple-station drive-through shall have stacking lanes that will accommodate a minimum of three vehicles per station, including the vehicle at that station.

The proposed use meets this requirement because the drive through restaurants provide stacking of seven to nine cars each.

2. The drive-through shall be screened in accordance with LVMC 19.08.040(F).

The proposed use does not meet this requirement, because one of the Drive Through lanes has a five foot buffer where an eight foot buffer is required. The applicants are requesting a Special Use Permit, which staff supports.

3. In the O (Office) and C-D (Designed Commercial) Districts, a drive-through shall be separated from any residentially zoned property by an intervening building and shall not have access to local residential streets.

This requirement is not applicable as the subject site it is not located in the O (Office) or C-D (Designed Commercial) Zoning Districts.

The proposed Drive Through use is compatible with the existing, surrounding shopping center uses and does not pose a risk to the health, safety welfare of neighboring businesses and residents.

Special Use Permit (22-0423-SUP2) for an Auto Smog Check Use

The Auto Smog Check use is defined as “A facility for the testing of vehicle emissions.” The proposed use meets the definition because it is a facility for the testing of vehicle emissions. The Auto Smog Check use is conditioned upon meeting the following requirements.

The Minimum Special Use Permit Requirements for this use include:

1. The facility must have a minimum size of 400 square feet, of which a minimum of 200 square feet must be an enclosed structure, with the remainder of the facility allowed to be located under service canopies. At least one area the size of a standard parking space shall be provided at each facility for the testing of vehicles.

The proposed use does not meet this requirement, because the proposed building is 72 square feet with no canopy. The applicants are requesting a Waiver of this requirement as a part of their Special Use Permit, which staff supports.

2. All equipment must be stored and utilized within the enclosed structure.

The proposed use meets the requirement because all equipment related to the use will be stored inside the building.

3. If conducted as an accessory use to a general retail use, minor auto repair facility, or major auto repair facility, the auto smog check facility shall be designed to be architecturally compatible with the primary building on the site.

The proposed use meets this requirement because it is architecturally compatible with the other buildings proposed for this development.

4. When operated as a primary use, no other automobile repair shall be permitted in conjunction with the facility.

The proposed use meets the requirement because no automobile repair is proposed as a part of the overall development.

5. Each facility shall have a stacking lane that will accommodate at least 3 cars, including the vehicle being tested. As an alternative to the requirement in the preceding sentence, a facility may designate two parking spaces for stacking, in addition to the testing area required by Conditional Use Regulation 1.

The proposed use meets the requirement because it is providing two additional parking spaces, as well as the testing area.

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The Auto Smog Check use is an automobile centric use that is compatible with the proposed Drive Through use and poses minimal impact to the surrounding properties as they are established shopping centers with multiple pad sites, similar to what is being proposed. Therefore, staff recommend approval of the Special Use Permit for an Auto Smog Check.

Staff finds that the proposed development will not significantly hinder the transition to transit-oriented and mixed-use development in the area, as the subject site is an established shopping center and the applicant is proposing to revitalize underutilized parking lot areas into an active service commercial corridor for area patrons. In addition, the applicant is proposing to replace asphalt with structures and trees which will mitigate the heat island effect and provides an acceptable counterbalance to the continuation of an auto-oriented development. Therefore, staff recommend approval of the Site Development Plan, and both Special Use Permits for an Auto Smog Check and Drive Through uses.

FINDINGS (22-0423-SUP1 and SUP2)

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.**

The surrounding uses are compatible and harmonious with the proposed land use, and is supported by the General Plan.

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

The subject site is suitable for the proposed use as it provides sufficient parking on the property, and does not pose traffic circulation problems.

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 property is served directly by West Sahara Avenue, which is classified as a Primary Arterial with a 150-foot right-of-way width by the Master Plan of Streets and Highways. The street has sufficient capacity to serve the proposed use.

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- 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 the Special Use Permit at the subject property will not jeopardize the public health, safety, and welfare or the objectives of the General Plan.

- 5. The uses meet all of the applicable conditions per Title 19.12.**

The Drive Through use does not meet landscape screening requirements per Title 19.08.040(F) for a Conditional Use. The Auto Smog Check use does not meet the minimum building size requirements per Title 19.12. The applicant is requesting a Special Use Permit for each which staff supports.

FINDINGS (22-0423-SDR1)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

- 1. The proposed development is compatible with adjacent development and development in the area;**

The surrounding uses on West Sahara Avenue, a commercial corridor, are compatible and harmonious with the proposed land use, and is supported by the General Plan.

- 2. The proposed development is consistent with the General Plan, this Title, and other duly-adopted city plans, policies and standards;**

The proposed development is consistent with the General Plan and Title 19.

- 3. Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

The property is served directly by West Sahara Avenue, which is classified as a Primary Arterial with a 150-foot right-of-way width by the Master Plan of Streets and Highways. The street has sufficient capacity to serve the proposed use.

- 4. Building and landscape materials are appropriate for the area and for the City;**

Both building and landscape materials are appropriate for the area and a desert climate.

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- 5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

The proposed building elevations feature a modern architectural design with a fiberglass composite façade. The building designs are not unsightly, undesirable, or obnoxious in appearance. The building elevations are harmonious and compatible with development in the area.

- 6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.**

The proposed development is subject to building permit review and regular inspections during construction to ensure the public health, safety and general welfare are protected.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
09/12/17	The Department of Planning approved a Site Development Plan Review (SDR-71423) to install a drive through ATM machine. The entitlement was not exercised.
08/31/20	A Code Enforcement case (CE20-04799) was processed for graffiti and a homeless encampment. The case was resolved on 09/29/20
06/02/21	The City Council approved a General Plan Amendment (21-0029-GPA1) to adopt The City of Las Vegas 2050 Master Plan and amend various land use categories to TOD-1 (Transit Oriented Development-1), TOD-2 (Transit Oriented Development-2), TOC-1 (Transit Oriented Corridor-1), TOC-2 (Transit Oriented Corridor-2), OR NMXU (Neighborhood Center Mixed Use) within The City of Las Vegas.
06/21/22	A Code Enforcement case (SE22-03121) was processed for remnants of trash and belongings from an abandoned homeless encampment. The case remains unresolved.

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Related Relevant City Actions by Planning, Fire, Bldg., etc.	
10/11/22	<p>The Planning Commission voted (7-0) to recommend APPROVAL of the following Land Use Entitlement project requests on 3.5 acres at 3441 West Sahara Avenue (APN 162-08-110-001), C-1 (Limited Commercial) Zone, Ward 3 (Diaz).</p> <p>22-0423-SUP1 - SPECIAL USE PERMIT - FOR A PROPOSED DRIVE THROUGH USE</p> <p>22-0423-SUP2 - SPECIAL USE PERMIT - FOR A PROPOSED AUTO SMOG CHECK USE</p> <p>22-0423-SDR1 - SITE DEVELOPMENT PLAN REVIEW - FOR A PROPOSED ADDITION OF FIVE STRUCTURES TOTALING 3,672 SQUARE FEET TO AN EXISTING COMMERCIAL DEVELOPMENT</p>

Most Recent Change of Ownership	
10/15/19	A deed was recorded for a change in ownership.

Pre-Application Meeting	
07/07/22	Staff held a meeting with the applicants to discuss a Site Development Review application for addition of several buildings to an existing shopping center.

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

Field Check	
08/31/22	Staff conducted a routine field visit and found the site to be well-maintained and free of nuisances.

Details of Application Request	
Site Area	
Net Acres	3.50

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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 Store, Other than Listed	NMX-U (Neighborhood Mixed Use Center)	C-1 (Limited Commercial)
	Restaurant		
	General Personal Service		
	Office, Other than Listed		
North	Financial Institution, General	NMX-U (Neighborhood Mixed Use Center)	C-1 (Limited Commercial)
			P-R (Professional Office and Parking)
South	Multi-Family Residential	ML (Medium Low Density Residential)	R-PD13 (Residential Planned Development - 13 Dwelling Units per Acre)

<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>
East	Automobile Rental	NMX-U (Neighborhood Mixed Use Center)	C-1 (Limited Commercial)
	Single Family, Detached		
West	Church/House of Worship	NMX-U (Neighborhood Mixed Use Center)	C-1 (Limited Commercial)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Charleston	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (200 Feet)	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area – Area 2	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to 19.08.070 the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Setbacks			
• Front	10 Feet	67 Feet	Y
• Side	10 Feet	17 Feet	Y
Max. Lot Coverage	50 %	21 %	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Screened, Gated, w/ a Roof or Trellis	Y
Mech. Equipment	Screened	Screened	Y

Pursuant to Title 19.08.040(F) and 19.08.070, the following standards apply:

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	8 Trees	8 Trees	Y
• East	1 Tree / 35 Linear Feet	6 Trees	6 Trees	Y
• West	1 Tree / 35 Linear Feet	3 Trees	4 Trees	Y
TOTAL PERIMETER TREES		17 Trees	18 Trees	Y
Parking Area Trees	1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces	14 Trees	17 Trees	Y
LANDSCAPE BUFFER WIDTHS				
Min. Zone Width (applicable to drive through use)				
• North (ROW)	15 Feet		15 Feet	Y
• East (Interior)	8 Feet		5 Feet	N*
• East (ROW)	15 Feet		15 Feet	Y
• West (Interior)	8 Feet		8 Feet	Y

*The applicant is applying for a Special Use Permit to allow a five foot landscape buffer.

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Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
West Sahara Avenue	Primary Arterial	Master Plan of Streets and Highways Map	150	Y
Tamrich Drive	Local Street	Title 13	62	Y

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	
Shopping Center	31,296 SF	1:250 SF	126				
TOTAL SPACES REQUIRED			126		155		Y
Regular and Handicap Spaces Required			120	6	147	8	Y