



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**CITY COUNCIL MEETING DATE: APRIL 19, 2023**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: NEVADA RESTAURANT SERVICES, INC. -  
OWNER: FLAMINGO, INC.**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>23-0089-EOT1</b>	Staff recommends APPROVAL, subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      21

**NOTICES MAILED**                      1357

**PROTESTS**                      0

**APPROVALS**                      0

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

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**23-0089-EOT1 CONDITIONS**

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**Planning**

1. This approval shall expire on May 26, 2024 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.

**Staff Report Page One**  
**April 19, 2023 - City Council Meeting**

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

**PROJECT DESCRIPTION**

This is a request for an Extension of Time for a nonconforming Liquor Establishment (Tavern) use that includes both Alcohol, On-Premise Full and Gaming Establishment, Restricted uses at 238 South Rainbow Boulevard. The location is a tenant space within an existing shopping center.

**ISSUES**

- This is the first request for an Extension of Time for a legal, nonconforming Liquor Establishment (Tavern) use at this location. The previous business at this location closed 05/26/22.
- Since the adoption of Ordinance 6806 amending alcoholic beverage licensing and zoning requirements, what used to be termed a Liquor Establishment (Tavern) land use now consists of two land use components: Alcohol, On-Premise Full and Gaming Establishment, Restricted. If this Extension of Time is denied, the uses can only be reestablished through approval of separate Special Use Permits in conformance with Title 19 requirements.
- The applicant has applied for a building permit for a tenant improvement to remodel the interior of the tenant space and a business license for Alcohol, On-Premise Full. The building permit has not yet been issued. The Extension of Time is requested to allow the applicant to work through the permitting and licensing processes.

**ANALYSIS**

Title 19.14.030 allows for the 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 Title 19.14, a public hearing is required so as to notify neighboring homeowners and registered associations, providing the opportunity for comment.

A tavern and restaurant have been operating in this location since 1983. The existing tavern license was marked out of business on May 26, 2022 and no part of the business (restaurant, gaming or liquor) is currently in operation. The alcohol use was legally established prior to the requirement for a Special Use Permit for a Liquor Establishment (Tavern) use and included a restricted gaming component for up to 15 gaming machines.

**Staff Report Page Two**  
**April 19, 2023 - City Council Meeting**

Following the adoption of Ordinance 6806 in 2022 regarding regulation of alcoholic beverages, liquor licenses are no longer deemed to be assets. Once a liquor license is marked out of business, it is no longer placed in nonoperational status and reinstated when it once again becomes operational. A new license must be obtained that conforms to the requirements of Ordinance 6806. In this case, a Full Alcohol, On-Premise license must be obtained.

Under Ordinance 6806, the distance separation requirement for alcohol uses was diminished and became disassociated with gaming operations. Thus, the established Title 19.12 separation distance from protected uses for an Alcohol, On-Premise Full use is 400 feet, but the separation distance for an associated Restricted Gaming use is 1,500 feet if the number of gaming machines exceeds five, as in this case. A church is located 750 feet from the subject property and east of Rainbow Boulevard, which is a 155-foot right-of-way. Despite this change the nonconforming status of the Alcohol, On-Premise Full use remains, as there is no prior Special Use Permit approval for this use.

If the requested Extension of Time is approved, both the nonconforming status of the abandoned alcohol and gaming uses would be extended until May 26, 2024. If denied, both the Alcohol, On-Premise Full and Gaming Establishment, Restricted (6 to 15 Machines) uses could be reestablished in the future, but only with approval of separate Special Use Permits and only in conformance with current use requirements. For a Gaming Establishment, Restricted use with more than five gaming machines, a request to waive the 1,500-foot minimum distance separation requirement from protected uses must accompany the Special Use Permit request. The separation requirement is waivable due to the church's location on the opposite side of a minimum 100-foot right-of-way (Rainbow Boulevard) from the subject site.

Staff conducted a field check of the site and found a tenant space for a bar and restaurant with signage still intact. The site was free of trash and debris. No graffiti was detected on the building. However, illegal signage was observed on the freestanding sign that advertises this space, as well as within the landscape buffer on the western edge of Rainbow Boulevard. These observations were forwarded to Code Enforcement for possible further action.

**Staff Report Page Three**  
**April 19, 2023 - City Council Meeting**

**FINDINGS (23-0089-EOT1)**

Title 19.14.030 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.” Staff finds that the applicant has demonstrated hardship in that additional time is necessary to obtain the necessary permits and licenses to reopen under a new operator. The Alcohol, On-Premise Full and Gaming Establishment, Restricted uses can be conducted in a manner that is compatible with the adjacent uses. There has been no noted negative effect on protected uses while these uses were operational. The health, safety and welfare of the public would not be jeopardized by continuation of the Liquor Establishment (Tavern) use [Alcohol, On-Premise Full and Gaming Establishment, Restricted] at this location. Staff recommends approval of the Extension of Time with a one-year time limit in accordance with Title 19.14. If this request for an Extension of Time is denied, the use will cease on May 26, 2023 and can only be reestablished through approval of separate Special Use Permits in conformance with Title 19 as detailed above.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
03/05/69	The Board of City Commissioners approved a request for a Rezoning (Z-0005-69) from R-E (Residence Estates) and R-1 (Single Family Residence) to C-1 (Limited Commercial) on property generally located at the southwest corner of Rainbow Boulevard and Westcliff Drive. The Planning Commission and staff recommended approval.
03/14/73	The Board of City Commissioners approved a request for a Plot Plan Review (Z-0005-69 and Z-0029-67) for a proposed shopping center on property generally located at the southwest corner of Westcliff Drive and Rainbow Boulevard. The Planning Commission and staff recommended approval.
06/06/79	The Board of City Commissioners approved a request for a Plot Plan Review (Z-0005-69 and Z-0029-67) and Review of Conditions for expansion of a proposed shopping center on property generally located at the southwest corner of Westcliff Drive and Rainbow Boulevard. The Planning Commission and staff recommended approval.
01/07/81	The Board of City Commissioners approved a request for a Plot Plan Review (Z-0005-69) for expansion of an existing shopping center on property generally located at the southwest corner of Westcliff Drive and Rainbow Boulevard. The Planning Commission and staff recommended approval.

**Staff Report Page Four**  
**April 19, 2023 - City Council Meeting**

<b><i>Most Recent Change of Ownership</i></b>	
11/05/92	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
05/12/82	A building permit (#0869) was issued for a 9,425 square-foot shell building (Shell Building A) at 230-238 South Rainbow Boulevard. A Certificate of Occupancy was issued 12/16/82.
09/30/82	A building permit (#3875) was issued for a tenant improvement for a 4,225 square-foot bar and restaurant (Inn Zone II) at 238 South Rainbow Boulevard. A final inspection was approved and Certificate of Occupancy was issued 01/28/83.
c. 1983	A business license (L16-00070) was issued for a tavern at 238 South Rainbow Boulevard. The license was marked out of business on 05/26/22.

<b><i>Related Building Permits/Business Licenses</i></b>	
12/16/92	A business license (G01-01538) was issued for restricted gaming (Inn Zone Rainbow) at 238 South Rainbow Boulevard. The license was marked out of business on 05/26/22.
08/28/00	A building permit (#00016067) was issued for a non-work certificate of occupancy for a tavern at 238 South Rainbow Boulevard. A final inspection was approved 08/29/00.
07/13/22	Application (C22-02740) was made for a building permit for a tenant improvement for a tavern and restaurant (NRSl) at 238 South Rainbow Boulevard. A permit has not been issued.
12/07/22	Application was made for a privilege business license (P70-00318) for Full Alcohol On-Premise (Dotty's) at 238 South Rainbow Boulevard. A license has not been issued.
	Application was made for a privilege business license (P70-00320) for restricted gaming (Dotty's) with 15 slot machines at 238 South Rainbow Boulevard. A license has not been issued.
	Application was made for a business license (G70-08283) for a restaurant (Dotty's) at 238 South Rainbow Boulevard. The application was denied.

<b><i>Pre-Application Meeting</i></b>
A pre-application meeting was not required, nor was one held.

**Staff Report Page Five**  
**April 19, 2023 - City Council Meeting**

***Neighborhood Meeting***

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

***Field Check***

03/02/23	The site is located within a fully improved shopping center along a major street. The tenant space was found to be closed but in good condition with no graffiti present. Signage advertising this establishment located along Rainbow Boulevard contained commercial messages on the supporting pole structure and on temporary signs within the public right-of-way.
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***Details of Application Request***

***Site Area***

Net Acres	0.37
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<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Undeveloped [approved Church/House of Worship without Certificate of Occupancy]	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

Staff Report Page Six  
 April 19, 2023 - City Council Meeting

<b><i>Master and Neighborhood Plan Areas</i></b>	<b><i>Compliance</i></b>
Las Vegas 2050 Master Plan Area: Charleston	Y
<b><i>Special Area and Overlay Districts</i></b>	<b><i>Compliance</i></b>
A-O (Airport Overlay) District (200 Feet)	Y
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></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