UPDATE

RETAIL/RESTAURANT
(TITLE 30)

LAS VEGAS BLVD S/SUNSET RD

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

UC-0443-13 – PILGER FAMILY HOLDINGS, LLC:

**HOLDOVER USE PERMITS** for the following: 1) retail sales and service; and 2) restaurant.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: 1) reduced setback from a right-of-way; and 2) reduced parking.

**DESIGN REVIEW** for a retail building on a 0.9 acre portion of a 1.9 acre retail center in an H-1 (Limited Resort and Apartment) (AE-70 & AE-75) Zone.

Generally located on the west side of Las Vegas Boulevard South, 1,200 feet north of Sunset Road within Paradise. SS/pb/ml (For possible action)

---

**RELATED INFORMATION:**

**APN:**
162-32-802-050, 051, & 052 ptn

**WAVERS OF DEVELOPMENT STANDARDS:**
1. Reduce the setback from a right-of-way to a retail building to zero feet where a minimum setback of 10 feet is required (a 100% reduction).
2. Reduce parking to 86 spaces where 90 spaces are required (a 4.5% reduction).

**LAND USE PLAN:**
WINCHESTER/PARADISE - INDUSTRIAL

**BACKGROUND:**

**Project Description**

**General Summary**
- CMA Deed Restricted
- Site Acreage: 0.9
- Project Type: Retail sales and service/restaurant building
- Number of Stories: 1
- Building Height: Up to 29 feet 6 inches
- Square Feet: 6,109
- Parking Required/Provided: 90/86

**Site Plan**
The plans show a proposed 6,109 square foot retail building located on the northwestern portion of an existing retail center consisting of a 3,000 square foot fast food restaurant with a drive-thru and a 3,000 square foot convenience store with gasoline pumps. The site has 2 existing driveways providing access to Las Vegas Boulevard South to the west. The proposed building
shares parking and access with the existing buildings to the south. A trash enclosure and 20 new
parking spaces are located on the south side of the proposed building.

**Landscaping**
The plans depict various trees and shrubs in landscaped areas on the north, east, and west sides
of the buildings. The proposed landscaping will be compatible with the existing landscaping
shown adjacent to the attached sidewalk next to Las Vegas Boulevard South.

**Elevations**
The plans show a retail building with stucco façade, stone veneer, a parapet roof with varying
height, decorative awning, and aluminum storefront glazing on doors and windows. The
building ranges in height from 20 feet 8 inches to 29 feet 6 inches.

**Floor Plans**
The plans depict a 6,109 square foot building divided into 4 suites ranging in area from 1,086
square feet to 2,115 square feet. The larger suites on the east and west sides of the building may
be used as restaurants.

**Signage**
Signage is not a part of this application.

**Applicant’s Justification**
The applicant indicates that the proposed use and building are compatible and harmonious with
the existing commercial development on the site. The justification for the first waiver is that a
remnant portion of the railroad alignment was rerouted around McCarran Airport Runway 19
and is not believed to be used by the railroad. The applicant has submitted a parking study that
justifies the reduction in parking and indicates the proposed 86 parking spaces are adequate to
support the development.

**Prior Land Use Requests**

<table>
<thead>
<tr>
<th>Application Number</th>
<th>Request</th>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADR-0153-04</td>
<td>Off-premise advertising sign - expired</td>
<td>Approved Administratively</td>
<td>February 2004</td>
</tr>
<tr>
<td>UC-0414-01</td>
<td>Fast food restaurant to the south of the proposed retail building</td>
<td>Approved by PC</td>
<td>June 2001</td>
</tr>
<tr>
<td>UC-1119-00</td>
<td>Redesigned the previously approved convenience store and gas station with a waiver of the landscaping buffer</td>
<td>Approved by PC</td>
<td>July 2000</td>
</tr>
<tr>
<td>VC-1799-99</td>
<td>Convenience store with a gasoline service station and variances to reduce setbacks and landscaping to the south of the proposed retail building - expired</td>
<td>Approved by PC</td>
<td>August 1999</td>
</tr>
</tbody>
</table>
### Surrounding Land Use

<table>
<thead>
<tr>
<th>Planned Land Use Category</th>
<th>Zoning District</th>
<th>Existing Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Business and Design/Research Park</td>
<td>P-F</td>
<td>Bali Hai Golf Course &amp; a portion of the Union Pacific Railroad right-of-way</td>
</tr>
<tr>
<td>South Industrial</td>
<td>H-1</td>
<td>Part of the retail center with a fast food restaurant &amp; convenience store with gasoline service</td>
</tr>
<tr>
<td>East Public Facilities</td>
<td>P-F</td>
<td>Las Vegas Boulevard South &amp; a portion of McCarran International Airport</td>
</tr>
<tr>
<td>West Industrial</td>
<td>M-1</td>
<td>Undeveloped portion of an existing freight terminal</td>
</tr>
</tbody>
</table>

### STANDARDS FOR APPROVAL:
The applicant shall demonstrate that the proposed request meets the goals and purposes of Title 30.

#### Analysis

**Current Planning**

**Use Permits**

A use permit is a discretionary land use application that is considered on a case by case basis in consideration of Title 30 and the Comprehensive Plan. One of several criteria the applicant must establish is the use is appropriate at the proposed location and demonstrate the use shall not result in a substantial or undue adverse effect on adjacent properties. Approval of this request will allow the development of a pad site of an existing retail center. Staff finds that the requested use is compatible with the existing retail center, and therefore, conforms to Policy 1.21 of the Winchester/Paradise Land Use Plan that encourages new development and special uses that are adjacent to existing land uses be compatible.

#### Waivers of Development Standards

According to Title 30, the applicant shall have the burden of proof to establish that the proposed request is appropriate for its existing location by showing that the uses and value of the area adjacent to the property included in the waiver of development standards request will not be affected in a substantially adverse manner. The intent and purpose of a waiver of development standards is to modify a development standard where the provision of an alternative standard, or other factors which mitigate the impact of the relaxed standard, may justify an alternative. The plans show the proposed landscaping shall be compatible with the existing landscaping in the right-of-way that is developed as part of an existing golf course. The parking study submitted by the applicant indicates the parking provided will be sufficient to accommodate parking for the existing and proposed development on the site. Furthermore, the requested reduction is minor. Therefore, staff finds that the applicant has established the proposed building will not negatively affect the adjacent property.

#### Design Review

The proposed retail building is being developed in conjunction with the existing retail center to the south, and therefore, conforms to Policy 2.11 of the land use plan which states projects are
encouraged to provide cross access by using shared parking areas and driveways when adjacent to arterial and collector streets. Furthermore, the proposed building is compatible with the existing buildings.

**Department of Aviation**

The development will penetrate the 100:1 notification airspace surface for McCarran International Airport. Therefore, as required by 14 CFR Part 77, and Section 30.48.120 of the Clark County Unified Development Code, the Federal Aviation Administration (FAA) must be notified of the proposed construction or alteration. The development will penetrate the Part 77 airspace surface (Airport Airspace Overlay District), as defined by Section 30.48.100 of the Clark County Unified Development Code. Therefore, as required by Section 30.16.210(12) (D) of the Clark County Unified Development Code, final action cannot occur until the FAA has issued an airspace determination and the Department of Aviation has reviewed the determination. In addition, the property lies within the AE-70 (70-75 DNL) and AE-75 (75-80 DNL) noise contours for McCarran International Airport and is subject to continuing aircraft noise and over-flights. Future demand for air travel and airport operations is expected to increase significantly. Clark County intends to continue to upgrade McCarran International Airport facilities to meet future air traffic demand.

**Staff Recommendation**

Approval.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Comprehensive Plan, Title 30, and/or the Nevada Revised Statutes.

**PRELIMINARY STAFF CONDITIONS:**

**Current Planning**

- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that approval of this application does not constitute or imply approval of a liquor or gaming license or any other County issued permit, license, or approval; any change in circumstances or regulations may be justification for the denial of an extension of time; and that this application must commence within 2 years of approval date or it will expire.

**Public Works – Development Review**

- Drainage study and compliance;
- Traffic study and compliance;
- Provide Record of Survey.

**Department of Aviation**

- Applicant is required to file a valid FAA Form 7460-1, "Notice of Proposed Construction or Alteration" with the FAA, in accordance with 14 CFR Part 77, or submit to the Director of Aviation a "Property Owner's Shielding Determination Statement" and request written concurrence from the Department of Aviation;
If applicant does not obtain written concurrence to a “Property Owner's Shielding Determination Statement,” then applicant must also receive either a Permit from the Director of Aviation or a Variance from the Airport Hazard Areas Board of Adjustment (AHABA) prior to construction as required by Section 30.48 Part B of the Clark County Unified Development Code;

- Incorporate exterior to interior noise level reduction into the building construction as required by Code for use(s);
- Outside dining in the AE-70 is permitted subject to the recording of a Commercial Noise Disclosure Statement;
- Outside dining in the AE-75 is not permitted.
- Applicant is advised that the FAA’s determination is advisory in nature and does not guarantee that a Director's Permit or an AHABA Variance will be approved; FAA’s airspace determinations (the outcome of filing the FAA Form 7460-1) are dependent on petitions by any interested party and the height that will not present a hazard as determined by the FAA may change based on these comments; the FAA’s airspace determinations include expiration dates and that the separate airspace determinations will be needed for construction cranes or other temporary equipment; the Federal Aviation Administration will no longer approve remedial noise mitigation measures for incompatible development impacted by aircraft operations, which was constructed after October 1, 1998; and that funds will not be available in the future should the owners wish to have their buildings purchased or soundproofed.

Fire Department
- Applicant is advised that fire/emergency access must comply with the Fire Code as amended; permits may be required for this facility; and to please contact fire prevention for further information (702) 455-7316.

Clark County Water Reclamation District (CCWRD)
- Applicant is advised to meet with CCWRD at their earliest convenience; there is an existing CCWRD public 10 inch sanitary sewer line in the northerly part of this parcel in an existing easement; the proposed location of the retail/restaurant building is on top of the existing sewer and easement; the applicant is required to meet with CCWRD to resolve sanitary sewer easement issues before CCWRD can support the zoning request; CCWRD must have 24 hour access to maintain public sewer lines; applicant may propose relocation of the public sewer at his expense, maintaining flow capacity and meeting all CCWRD design standards; no on-site improvements will be allowed in any proposed replacement easement location that would interfere with CCWRD 24/7 maintenance access; easement conditions would prohibit the placement of any buildings, structures, fences, trees, shrubs, improvements, and landscaping which would interfere with its use or access to it; during construction, service to existing CCWRD customers shall be maintained; and that vacation of the existing easement shall not occur until the CCWRD has accepted the constructed rerouted public sanitary sewer.

TAB/CAC: September 24, 2013 Paradise Town Board – approval (per staff conditions). /bv
APPROVALS: 1 card
PROTESTS:
PLANNING COMMISSION ACTION: October 15, 2013 – HELD – To 11/05/13 – for the applicant to work with the FAA.

PLANNING COMMISSION ACTION: November 5, 2013 – HELD – To 11/19/13 – per the Clark County Department of Aviation to allow applicant to obtain FAA determinations.

PLANNING COMMISSION ACTION: November 19, 2013 – HELD – To 12/03/13 – per the Clark County Department of Aviation to allow the applicant to obtain FAA determinations.

PLANNING COMMISSION ACTION: December 3, 2013 – HELD – To 01/07/14 – per the applicant.

APPLICANT: Brad Lambert
CONTACT: John David Burke, 3471 West Oquendo Road #301, Las Vegas, NV 89118