City of Las Vegas

Agenda Item No.: **27.**

AGENDA SUMMARY PAGE - PLANNING
PLANNING COMMISSION MEETING OF: JULY 14, 2015

DEPARTMENT: PLANNING
DIRECTOR: TOM PERRIGO ☐Consent ☒ Discussion

SUBJECT:
ABEYANCE - SUP-59027 - SPECIAL USE PERMIT - PUBLIC HEARING - APPLICANT: OPORTUN - OWNER: BIEN UNO, LLC - For possible action on a request for a Special Use Permit FOR A PROPOSED 1,711 SQUARE-FOOT FINANCIAL INSTITUTION, SPECIFIED USE WITH WAIVERS TO ALLOW A ZERO-FOOT DISTANCE SEPARATION FROM A RESIDENTIAL USE WHERE 200 FEET IS REQUIRED AND A 112-FOOT DISTANCE SEPARATION FROM AN EXISTING SIMILAR USE WHERE 1,000 FEET IS REQUIRED at 568 North Eastern Avenue, Suite A (APN 139-36-111-005), C-1 (Limited Commercial) Zone, Ward 3 (Coffin) [PRJ-58966]. Staff recommends DENIAL.

C.C.: 8/19/2015

PROTESTS RECEIVED BEFORE:		**APPROVALS RECEIVED BEFORE:**	
Planning Commission Mtg.	**0**	**Planning Commission Mtg.**	**1**
City Council Meeting	**0**	**City Council Meeting**	**0**

RECOMMENDATION:
Staff recommends DENIAL, if approved, subject to conditions:

BACKUP DOCUMENTATION:
1. Location, Aerial and Special Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photo(s)
5. Justification Letter
6. Submitted at Meeting Support Letter from Warren K. Kellogg

Motion made by TRINITY HAVEN SCHLOTTMAN to Deny

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0
CEDRIC CREAR, GLENN TROWBRIDGE, VICKI QUINN, TODD L. MOODY, TRINITY HAVEN SCHLOTTMAN, GUS FLANGAS, SAM CHERRY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:
CHAIR MOODY declared the Public Hearing open.

PETER LOWENSTEIN, Planning Section Manager, reported that the proposed location fails to comply with the minimum distance requirements for the requested Special Use Permit. The proposed zero-foot residential distance separation Waiver from the condominium parcel to the east represents a 100 percent reduction from the required 200-foot separation, and the 112-foot distance separation Waiver from a similar use represents an approximate 88 percent reduction from the required 1,000-foot separation mandated by Title 19. Additionally, there are five Financial Institution, Specified uses within 1,000 feet of the location; this combined with the required Waivers reinforces the unsuitability of this site for the proposed use. This cannot be conducted in a harmonious and compatible manner with the existing neighborhood and surrounding land use; therefore, staff recommended denial.

ATTORNEY TONY CELESTE appeared representing the applicant, along with JOAN ARISTEI, Vice President and in-house General Counsel for the applicant, and WARREN KELLOGG, property owner and landlord of the proposed site.

Oportun received approval of their first location at the June 2015 Planning Commission meeting, and will open that location in approximately three weeks. Oportun, LLC was created in 2006 by JAMES GUTIERREZ, in order to help the underserved segment of the population secure small, individual installment loans. They conduct a background check, which requires income verification, and they underwrite the loan. They are also [illegible] under Chapter 675 and have capped interest rates.

ATTORNEY CELESTE addressed the Waiver request regarding the separation distance from residential; there is a multi-family development to the east of the site, and when considering the block wall that separates the site from the residential area and the route taken to get there, that distance is greater than 200 feet. He also addressed the Waiver request regarding the separation distance from a similar use, noting that the site is located 112 feet from a similar use which is a payday loan company. Oportun is the only installment lender within a 1,000 foot radius.

ATTORNEY CELESTE informed the Commissioners that Oportun has signed a five-year lease and if for some reason they abandon the lease, the landlord has agreed that the lease will stipulate a condition that he will not lease the space to any other Financial Institution, Specified for one year. Doing this ensures that a new tenant would have to go through the Special Use Permit process and request approval from the Planning Commission. ATTORNEY CELESTE stated that they are also agreeable to a Required Review of the Special Use Permit which would confirm they are operating as promised.

ATTORNEY CELESTE reported that in 2009 and 2013, the U.S. Department of Treasury recognized Oportun as a community partner in development as well as providing economic opportunities for the underserved population.

MR. KELLOGG stated that he developed the Bonanza East shopping center 38 years ago, and in the last 10 years has invested over $2.5 million dollars into the property. He submitted a letter of support for the record.

MS. ARISTEI reiterated that Oportun has been in business for nine years; they are starting with five locations in the Las Vegas area and intend to expand their business here. The organization offers an affordable alternative for people who have little or no credit.

ASSISTANT CITY ATTORNEY BRYAN SCOTT stated that the condition the applicant is offering regarding the lease is not one the City could enforce as it would be a private agreement between Oportun and the landlord.

COMMISSIONER QUINN assumed that they were adding a service to an existing business. When opening a new business next door to an existing business with no distance separation and an encroachment on the neighborhood, she has to follow the standards set for Ward 1 and would not support this application.

COMMISSIONER SCHLOTTMAN liked what Oportun is providing, but with the distance separation Waiver request and five other Financial Institutions, Specified in the area, there is a level of saturation in the area. There is no way to enforce the private lease contract as suggested, he did not think a yearly review for many years was the right thing to do and this lends itself to an opportunity for another Financial Institution, Specified to take over the location should Oportun move out. COMMISSIONER SCHLOTTMAN would follow staff's recommendation for denial, but if they could find another appropriate location he would support this business.

CHAIR MOODY stated that the application approved last month had a de minimis Waiver request of 25 feet, but this is much different.

MR. KELLOGG explained that the lease has a prohibition against check cashing.

COMMISSIONER QUINN replied that when there is an existing use such as a payday loan, and they want to have another use like check cashing, it tends to not be looked at as a separate use. This application is for a separate use, is encroaching on the neighborhood and she would not support it.

ATTORNEY CELESTE reiterated that they would be agreeable to a yearly review until such time that the Planning Commission was satisfied.

COMMISSIONER CREAR asked if the lease for the location had already been signed, and wondered why this particular site was chosen. ATTORNEY CELESTE indicated that the lease had been signed, but there were provisions with respect to entitlements that provide the ability to get out of it. He indicated that it would be very difficult to find a location that would fit perfectly, and this location was chosen due to the demographics, catering to the underserved portion of society and making it easier for them to access services.

MS. ARISTEI indicated that the target market is the underbanked Hispanic population but anyone can apply. They are looking for people who do not have any credit, which is a different market than a payday lender. A lot of people do not have transportation, and Oportun does a lot of analysis to see where the best locations are to provide access to responsible credit.

CHAIR FLANGAS admired the goals of the business model, but because they are lending money, it falls under the definition of a financial institution. There are other financial institutions within a 1,000 foot radius, and it would be inconsistent to approve this so he could not support this item.

CHAIR MOODY declared the Public Hearing closed.