



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2018
 DEPARTMENT: PLANNING
 ITEM DESCRIPTION: APPLICANT/OWNER: STEWART I. BROOKS AND PAULA SUE BROOKS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
SUP-73810	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 33

NOTICES MAILED 452

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

SUP-73810 CONDITIONS

Planning

1. At such time as the property is put up for sale, the property owner shall voluntarily expunge the Special Use Permit.
2. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Short-Term Residential Rental use, unless waived herein.
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. A Waiver from Title 19.12 is hereby approved, to allow a zero-foot distance separation from an existing Short-Term Rental use where 660 feet is required.
5. The use shall not include the rental or occupancy of an accessory structure (Class I or II), a tent, a trailer or a mobile unit.
6. Prior to the issuance of a Short-Term Residential Rental business license all inspections required by the City of Las Vegas must be approved.
7. All necessary business licenses shall be obtained in compliance with Title 6 prior to any rental activities.
8. 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.
9. 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.
10. 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

The applicant is proposing to operate a short-term residential rental unit at 150 North Las Vegas Boulevard, Unit 1618, that does not meet the minimum required distance separation of 660 feet from a similar use. There is one other Short-Term Residential Rental unit within this separation radius, and several more on abeyance or awaiting vote at City Council.

ISSUES

- Pursuant to Title 19.12, a Short-Term Residential Rental use is permitted in the C-2 (General Commercial) zoning district only in connection with the residential component of a mixed-use development as a Conditional Use.
- The applicant will not comply with the owner occupied requirement of the Conditional Use Regulation and therefore, per Title 19.12.040, a Special Use Permit is requested.
- A Waiver has been requested to allow the use to be zero feet from an existing Short-Term Residential Rental use, where 660 feet is required. Staff does not support this waiver request
- The applicant is required to schedule an inspection through the Department of Planning - Code Enforcement Division. The inspection must be approved prior to the issuance of the business license.
- Code Enforcement opened Case #184269 for the illegal operation of a Short-Term Residential Rental at 150 North Las Vegas Boulevard, Unit 1618, on 11/19/17. The case was unresolved as of 08/08/18.

ANALYSIS

The property contains a Mixed-Use development containing both residential and commercial units, is zoned C-2 (General Commercial), and is subject to Title 19 requirements. The dwelling unit contains one bedroom per Clark County Assessor records.

A Short-Term Residential Rental use is permitted in the C-2 (General Commercial) zoning district as a Conditional Use. The proposed use would not meet the Conditional Use Regulations requiring it to be owner occupied during each period the unit is rented or for the dwelling unit to be 660 feet from any other Short-Term Residential Rental use;

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therefore, per Title 19.12.040, a Special Use Permit is requested. If another Short Term Residential Rental Special Use Permit (SUP) is approved within the 660-foot separation radius after a complete application is submitted, the additional SUP may factor into the determinations made by staff, Planning Commission and City Council. Further, it may necessitate additional waivers, renotification at the expense of the applicant, and delays in obtaining final action.

The Short-Term Residential Rental use is defined as “The commercial use, or the making available for commercial use, of a residential dwelling unit for dwelling, lodging or sleeping purposes, wherein any individual guest rents or occupies the entire dwelling unit or one or more individual rooms within the unit for a period of less than 31 consecutive calendar days. This use does not include a “Community Residence,” “Facility for Transitional Living for Released Offenders,” or any other facility with dwelling units that is specifically defined in Chapter 19.18. For purposes of this Title, this use does not include the rental or occupancy of an accessory structure (Class I or II), a tent, a trailer or a mobile unit. In the case of a single parcel containing more than one dwelling unit, each dwelling unit constitutes a separate short-term residential rental use.” Per justification letter stamped 06/27/18, the applicant is proposing to offer their condominium as a short-term residential rental and will not occupy the dwelling while the unit is being rented.

The Minimum Special Use Permit Requirements for this use include: (The requirements marked with an asterisk cannot be waived.)

- *1. The operator must obtain a business license to operate the use.

If this Special Use Permit is approved, the applicant will be required to obtain a business license prior to operating.

- *2. The use must comply on an ongoing basis with all governmental licensing and regulatory requirements, including the payment of applicable room taxes and licensing fees.

If a business license is issued for this Short-Term Residential Rental, it will be subject to license renewal and annual compliance review to ensure that all regulatory requirements continue to be met.

- *3. The use must comply with the City’s noise regulations as they apply to residential uses, as well as any applicable provisions of the Municipal Code that may pertain to odor nuisances.

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The Code Enforcement Division will investigate noise and odor nuisance allegations and take enforcement action when appropriate. Reports of violations will be forwarded to the Business Licensing Division for action when appropriate.

- *4. Vehicle parking associated with the use shall comply with applicable parking regulations, and vehicles of guests and invitees shall not obstruct traffic or access to other properties in the area.

The Code Enforcement Division will investigate traffic and access obstruction allegations and take enforcement action when appropriate. Reports of violations will be forwarded to the Business Licensing Division for action when appropriate.

- *5. In addition to and independent of any enforcement authority or remedy described in this Title, the failure to comply with a Minimum Special Use Permit Requirement or other condition of approval associated with this use may be enforced as in the case of a violation of Title 6 by means of a civil proceeding pursuant to LVMC 6.02.400 to 6.02.460, inclusive.

If a business license is issued for this Short-Term Residential Rental, it will be subject to license renewal and annual compliance review to ensure that all regulatory requirements continue to be met.

- *6. The use is allowed in the P-O, O, C-1, C-2 and C-PB Zoning Districts only in connection with the residential component of a mixed-use development or in a dwelling unit permitted as a legal nonconforming use.

The proposed Short-Term Residential Rental will be within the residential component of a mixed-use development.

- *7. The maximum occupancy of the residential dwelling unit shall not exceed the limits provided for in LVMC 6.75.090.

The Code Enforcement Division will investigate maximum occupancy allegations and take enforcement action when appropriate. Reports of violations will be forwarded to the Business Licensing Division for action when appropriate.

8. The use may not be located closer than 660 feet to any other Short-Term Residential Rental use (measured from property line to property line).

Applicant has requested a waiver of this requirement to allow the proposed Short-Term Residential Rental to be zero feet from the nearest existing Short-Term Residential Rental use, where 660 feet is required. Staff does not support the waiver request.

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The site is located within the Fremont East District of the Downtown Las Vegas Overlay and consists of a Mixed Use development that contains both residential and commercial land uses. The proposed Short-Term Residential Rental is an 859 square-foot unit on the 16th floor of a Mixed-Use Development with one bedroom and one and a half baths.

Additional parking for a Short-Term Residential Rental is only required if the unit has more than five bedrooms, at which point one additional space shall be required for every two additional bedrooms, or fractional portion thereof. The proposed Short-Term Residential Rental has one bedroom and therefore is not required to provide additional parking.

The applicant has requested a waiver of the 660-foot distance separation from a similar, existing use. The site is zero feet from the nearest Short-Term Residential Rental. The City Council approved Special Use Permit (SUP-71424) on 11/15/17, which permitted a Short-Term Residential Rental use within Unit 2105 of the Mixed-Use development. Staff does not support this waiver request.

The proposed Short-Term Residential Rental use will not be compatible within the existing Mixed-Use development due to the existing Short-Term Residential Rental use that is currently licensed in the building. Code requirements are intended to discourage the saturation of Short-Term Residential Rental uses within residential areas. The Minimum Special Use Permit Requirements specify that the distance between similar uses shall be at least 660 feet; therefore, staff recommends denial. If this application is approved, it is subject to conditions.

FINDINGS (SUP-73810)

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 proposed Short-Term Residential Rental use cannot be conducted in a manner that is harmonious and compatible with the existing surrounding land uses, as the property is located zero feet from an existing Short-Term Residential Rental use.

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

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The site is not physically suitable for the proposed Short-Term Residential Rental use as it is located within the required distance separation area of 660 feet from another Short-Term Residential Rental use.

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 proposed Short-Term Residential Rental use will be accessed via Las Vegas Boulevard and Ogden Avenue, an 85-foot primary arterial and 60-foot wide collector, respectively, which will provide adequate access for the proposed use.

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 on this property will be subject to conditions of approval, business license approval, and compliance inspections to assure it will not compromise the public health safety and welfare.

5. The use meets all of the applicable conditions per Title 19.12.

The proposed Short-Term Residential Rental use complies with all of the Special Use Permit requirements listed in Title 19.12 with the exception of the distance separation from a similar, existing use. The applicant has requested a waiver to allow a zero-foot separation, where 660 feet is required. Staff does not support this waiver request, and is recommending denial of the Special Use Permit request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
12/16/64	The City Council approved a request for a Resolution of Intent to Reclassify Real Property (Z0100-64) from R-1 (Single Family Residential), R-4 (High Density Residential), C-1 (Limited Commercial), C-2 General Commercial), and C-V (Civic) to C-2 (General Commercial) for approximately 230 acres generally located on property bounded by Main Street to the west, Bonanza Road on the north, Las Vegas Boulevard on the east, and Charleston Boulevard on the south. The Planning Commission recommended approval.
11/17/04	The City Council approved a request for a Special Use Permit (SUP-5180) for a 22-story, 24,000 square-foot, Mixed Use development adjacent to the southeast corner of Las Vegas Boulevard and Ogden Avenue. The Planning Commission and staff recommended approval.

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Related Relevant City Actions by Planning, Fire, Bldg., etc.	
	The City Council approved a request for a Site Development Plan Review (SDR-5180) for a 267-foot tall, 251 units, and 24,000 square feet of commercial in a Mixed Use development with Waivers from the Downtown Centennial Plan on 1.03 acres adjacent to the southeast corner of Las Vegas Boulevard and Ogden Avenue. The Planning Commission and staff recommended approval.
08/10/06	Staff administratively approved a request for an Administrative Site Development Plan Review (SDR-10790) for a proposed 267-foot high, Mixed-Use development consisting of 275 residential condominium units and 24,000 square feet of commercial floor space on 1.03 acres at the southeast corner of Las Vegas Boulevard and Ogden Avenue.
01/29/08	A Final Map (FMP-23474) recorded for a 276-unit Mixed-Use development (Streamline Tower) on 1.03 acres at the southeast corner of Las Vegas Boulevard and Ogden Avenue.
11/15/17	The City Council approved Special Use Permit (SUP-71424) to allow a Short-Term Rental use at 150 North Las Vegas Boulevard, Unit 1013. The Planning Commission recommended denial. Staff recommended approval.
11/19/17	Code Enforcement opened a case (#184269) for the unlicensed operation of a Short-Term Residential Rental at 150 North Las Vegas Boulevard, Unit 1618. The case was unresolved as of 08/08/18.

Most Recent Change of Ownership	
08/14/17	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
2007	The existing Mixed-Use development was constructed.

Pre-Application Meeting	
06/14/18	Staff conducted a pre-application meeting with the applicant where the submittal requirements for the Special Use Permit were discussed.

Neighborhood Meeting	
A neighborhood meeting was not required or held.	

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Field Check	
08/02/18	During a routine field check, staff observed the exterior of the Mixed-Use development. No signs of trash, debris or graffiti was observed.

Details of Application Request	
Site Area	
Net Acres	0.97

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Mixed-Use	C (Commercial)	C-2 (General Commercial)
North	Undeveloped Parking Lot	C (Commercial)	C-2 (General Commercial)
South	Pedestrian Walkway	C (Commercial)	C-2 (General Commercial)
East	Hotel & Casino	C (Commercial)	C-2 (General Commercial)
West	Parking Facility	C (Commercial)	C-2 (General Commercial)

Master and Neighborhood Plan Areas	Compliance
Downtown Master Plan – Fremont East District	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District – 200 Feet	Y
DE-O (Downtown Entertainment Overlay) District	Y
LW-O (Live/Work Overlay) District	Y
SB-O (Las Vegas Boulevard Scenic Byway Overlay) District	Y
Other Plans or Special Requirements	Compliance
Downtown Design Review Committee Area (DDRC)	N/A
Trails	Y
Las Vegas Redevelopment Plan Area – Downtown Redevelopment Area	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

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DEVELOPMENT STANDARDS

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Las Vegas Blvd	Primary Arterial	Master Plan of Streets and Highways	85	Y
Ogden Ave	Collector	Master Plan of Streets and Highways	60	Y

Waivers		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
A Short-Term Residential Rental use may not be located closer than 660 feet to any other Short-Term Residential Rental use (measured property line to property line).	To allow a Short-Term Residential Rental use to be zero feet from an existing Short-Term Residential Rental use.	Denial