



AGENDA MEMO

CITY COUNCIL MEETING DATE: SEPTEMBER 6, 2006
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-14880 - APPLICANT: DEVELOPMENT FUNDING GROUP
- OWNER: COHEN 1969 TRUST, PHILLIP JOSEPH COHEN, TRUSTEE

**** CONDITIONS ****

The Planning Commission (4-1/ds vote) and staff recommend DENIAL.

Planning and Development

1. Approval of and conformance to the Conditions of Approval for a General Plan Amendment (GPA-14354), Rezoning (ZON-14356), and Site Development Plan Review (SDR-14352).
2. This Variance shall expire two years from the date of final approval, unless it is exercised or an Extension of Time is granted by the City of Las Vegas.
3. In lieu of compliance with the open space requirements of Municipal Code 19.06.040, the developer will be allowed to make a contribution To Whom It May Concern: the City of Las Vegas Parks CIP Fund in the amount of **\$212,744** to be utilized by the City Council for improvements to existing public parks nearby. This contribution must be made to Land Development prior to approval of a Final Map; otherwise the developer is still required to comply with the Open Space requirement in accordance with Title 19 of the Las Vegas Municipal Code.

**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for a Variance to allow 1.44 acres of open space where 2.66 acres of open space is required on a property located at 3132 North Jones Boulevard.

The following related applications will be considered concurrently: a General Plan Amendment (GPA-14354) from SC (Service Commercial) to M (Medium Density Residential), a Rezoning (ZON-14356) from U (Underdeveloped) under Resolution of Intent to C-1 (Limited Commercial) to R-PD25 (Residential Planned Development 25 Units Per Acre) and a Site Development Plan Review (SDR-14352) for a proposed 161-unit development.

EXECUTIVE SUMMARY

The applicant is proposing a 161-unit condominium development on the subject site. There is no inherent limitation on the site to prevent compliance with this requirement; the requested Variance is self-imposed. As a result, denial of the request is recommended.

BACKGROUND INFORMATION

A) Related Actions

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|----------|---|
| 6/14/94 | The City Council approved a Rezoning from N-U (Non-Urban) to C-1 (Limited Commercial). |
| 10/27/97 | The City Council approved a Rezoning from U (Underdeveloped) Zone [SC (Service Commercial) General Plan Designation] to C-1 (Limited Commercial). |
| 07/27/06 | The Planning Commission recommended denial of companion items GPA-14354, ZON-14356 and SDR-14352 concurrently with this application. |
| 07/27/06 | The Planning Commission voted 4-1/ds to recommend DENIAL (PC Agenda Item #56/jm). |

B) Pre-Application Meeting

- | | |
|---------|---|
| 5/26/06 | The applicant attended a pre-application meeting to discuss the project and the necessary applications. The applicant was provided guidance on the development process. |
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C) *Neighborhood Meetings*

6/27/06 A neighborhood meeting was held by the applicant at Calvary Community Church, 2900 Torrey Pines. There were ten members of the public in attendance. The following summary identifies the concerns raised by members of the public at the meeting

- Dont want lighting to spill on existing properties
- Wall should match existing one
- Eliminate sidewalk along Rowland
- No Streetlights on Rowland
- Dont want two stories, prefer ranch style homes

DETAILS OF APPLICATION REQUEST

A) *Site Area*

Gross Acres: 7.36
Net Acres: 6.31

B) *Existing Land Use*

Subject Property: Vacant
North: Shopping Plaza
South: Vacant
East: Vacant - Clark County
West: Vacant

C) *Planned Land Use*

Subject Property: SC (Service Commercial)
North: SC (Service Commercial)
South: M (Medium Density Residential)
East: Clark County
West: SC (Service Commercial)

D) *Existing Zoning*

Subject Property: U (Underdeveloped) Zone [SC (Service Commercial) General Plan Designation] under Resolution of Intent to C-1 (Limited Commercial)
North: C-1 (Limited Commercial)
South: U (Underdeveloped) Zone [M (Medium Density Residential) General Plan Designation] under Resolution of Intent to R-3 (Medium Density Residential)
East: County
West: U (Underdeveloped) Zone [SC (Service Commercial) General Plan Designation]

E) General Plan Compliance

The subject property is located within the Southwest Sector of the General Plan. The RPD-25 (Residential Planned Development 25 Units Per Acre) zoning request is consistent with the related General Plan Amendment (GPA-14354) request the has been submitted to change the land use designation to M (Medium Density Residential), which would allow density of up to 25.49 units per acre.

While the density of the proposed development meets the requirements of the M (Medium Density Residential) Land Use Designation, the lack of open space for the development fails to meet the requirements of the Residential Planned Development category and; therefore, is not considered to meet the intent of the General Plan.

SPECIAL DISTRICTS/ZONES	Yes	No
Special Area Plan		X
Special Overlay District		X
Trails		X
Rural Preservation Overlay District		X
County/North Las Vegas/HOA Notification		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

A) Zoning Code Compliance

A1) Development Standards

Development standards for an R-PD (Residential Planned Development) are determined during the site development plan review process. The Planning Commission and City Council will establish development standards through the consideration of the Site Development Plan Review (SDR-14352), a related item.

Pursuant to Title 19.06, the following Open Space Standards apply to the subject proposal:

Total Acreage	Density	Required			Provided	
		Ratio	Percent	Area	Percent	Area
7.361	21.87	1.65	36 %	115,717 SF	19.5%	62,531 SF

The site plan does not conform to the open space requirements of an R-PD (Residential Planned Development) zoning district. As indicated above, a total of 115,717 square feet of open space is required; the deviation from the standard is 54%.

B) General Analysis and Discussion

The proposed project is consistent with portions of Title 19 development standards. However, the development does not comply with the open space requirements in Title 19 for the R-PD (Residential Planned Development) zoning district. Open space is an integral part of the R-PD zone, as the developer receives flexibility in design and density for the provision of amenities, such as open space. When open space is not provided, in effect, the project does not meet the standards for the zoning district in which it is located.

The alternative for allowing greater density is the provision of an imaginative layout and design, in which an intrinsic component is the provision of open space. Clearly, this applicant wishes to have the density advantage offered by R-PD zoning without providing any offsetting benefit to the community at large.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.

Additionally, Title 19.18.070L states:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a subdivision with less than the required open space. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 7

ASSEMBLY DISTRICT 1

SENATE DISTRICT 3

NOTICES MAILED 292 by City Clerk

APPROVALS 0

PROTESTS 0