

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: SEPTEMBER 6, 2006**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: APPLICANT: ETHOS THREE ARCHITECTURE - OWNER:**  
**AAMAX ENTERPRISES LLC**

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

The Planning Commission (7-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-13880), Variance (VAR-13881), and Special Use Permits (SUP-13877, SUP-13884, and SUP-13882 shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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

**APPLICATION REQUEST**

This is a request for a Variance to allow a 20-foot Residential Adjacency Setback where 70.75 feet is required for a proposed 30,904 square foot retail center on 2.07 acres on the east side of Eastern Avenue, approximately 153 feet north of Mesquite Avenue. SDR-13880, VAR-13881, SUP-13877, SUP-13882, and SUP-13884 were filed as companion items.

**EXECUTIVE SUMMARY**

The applicant proposes to locate a building too large for the site, therefore the companion Variance for parking and this Variance are required. The applicant has not indicated any justification for a deviation from the code. The recommendation is for denial of the proposed request.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 08/06/52      The subject property was Annexed (Ordinance Number 498) into the City of Las Vegas as part of larger request.
- 01/18/67      The City Council approved a Rezoning (Z-0072-66) to C-1 (Limited Commercial) on an adjacent site.
- 09/18/02      The City Council approved a request for a Rezoning (Z-0062-02) FROM: R-E (Residence Estates) TO: C-1 (Limited Commercial) on 1.79 acres at 540 North Eastern Avenue. The Planning Commission and staff recommended approval.
- 09/18/02      The City Council approved a request for a Site Development Plan Review [Z-0062-02(1)] and a Reduction of the Perimeter Landscaping Requirements to allow a five foot wide landscape planter on the north property line where an eight foot wide landscape planter is required for a proposed 25,200 square foot commercial center on 1.79 acres at 530 and 540 North Eastern Avenue. The Planning Commission recommended approval. Staff recommended denial.
- 03/17/04      The City Council approved a request for a Special Use Permit (SUP-3636) for a Liquor Establishment (Off-premise Consumption) in conjunction with a proposed grocery store adjacent to the east side of Eastern Avenue 150 feet north of Mesquite Avenue.

- 03/16/05 The City Council approved a request for a Reinstatement and Extension of Time (EOT-6043) for an approved Rezoning (Z-0062-02) FROM: R-E (Residence Estates) TO: C-1 (Limited Commercial) on 1.79 acres at 540 North Eastern Avenue.
- 08/10/06 The Planning Commission recommended denial of companion items VAR-13881, SUP-13882, SUP-13884 and SDR-13880 concurrently with this application.
- 08/10/06 The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #48/dr).

**B) Pre-Application Meeting**

- 05/10/06 The elements of a complete application for a Special Use Permit were discussed.

**C) Neighborhood Meetings**

A neighborhood meeting is not required as part of this application request, nor was one held.

**DETAILS OF APPLICATION REQUEST**

**A) Site Area**

Net Acres: 2.0

**B) Existing Land Use**

Subject Property: Undeveloped/ Commercial  
North: Commercial/Retail Center  
South: Commercial/Retail and Apartments  
East: Undeveloped and Single Family Residences  
West: Commercial/Retail

**C) Planned Land Use**

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

**D) Existing Zoning**

Subject Property: R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial) and C-1 (Limited Commercial)  
North: C-1 (Limited Commercial)  
South: R-3 (Medium Density Residential) and C-1 (Limited Commercial)  
East: R-3 (Medium Density Residential)  
West: C-1 (Limited Commercial)

**E) General Plan Compliance**

The site is designated as SC (Service Commercial) on the Southeast Sector map of the General Plan. The approved C-1 (Limited Commercial) zoning is in compliance with this land use designation.

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

**This site is not affected by any special plan areas or districts.**

**A) Zoning Code Compliance**

**A1) Residential Adjacency Standards**

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- a) Proximity slope. The maximum height of the apartment buildings adjacent to protected residential properties along the east property lines is 35 feet. The Proximity Slope limitation requires the easternmost building to be set back 70.75 feet from the residential property lines. These buildings are setback 20 feet from the residential use to the east. A Variance (VAR-14355) to allow the reduced setback will be required. The amount of deviation is 72 percent.
- b) Building setback. The apartment buildings must be set back a minimum of 20 feet to meet this requirement, which equals the rear yard setback of the protected properties.

**B) General Analysis and Discussion**

Two single-story commercial buildings are to be located on a rectangular shaped 2.07-acre lot. The site plan with this application indicates the 22,869 square-foot building is located up to the setback along Eastern and the 8,045 square-foot building along the rear property line. Parking for the buildings will be along the south side and between the buildings.

The site is too small for the proposed development, as evidenced by the need for waivers of landscaping and the need for the requested Variance of the Residential Adjacency standards and companion application for a parking variance.



## **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 proposing a development to large for the site. An alternative design that would include smaller buildings would facilitate conformance to the Title 19 requirements.

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.

## **PLANNING COMMISSION ACTION**

Note: Reference to SUP-13877 needs to be removed.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 11

**ASSEMBLY DISTRICT** 11

**SENATE DISTRICT** 2

**NOTICES MAILED** 465 by City Clerk

**APPROVALS** 0

**PROTESTS** 0