



## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: SEPTEMBER 20, 2006**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-15596 - APPLICANT: EVE MAZZARELLA - OWNER:**  
**408 S SEVENTH ST, LLC**

---

### **\*\* CONDITIONS \*\***

The Planning Commission (3-3 vote on a motion for approval) ended in a tie vote which is tantamount to denial and staff recommends DENIAL.

#### **Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-15045), Variance (VAR-15048), Variance (VAR-15049) and Site Development Plan Review (SDR-15043) 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 reduce the front yard setback of 10 feet where 20 feet is the minimum setback required and a corner side yard setback of six feet where 15 feet is the minimum setback required on 0.64 acres at the southwest corner of Seventh Street and Chef Andre Rochat Place.

**EXECUTIVE SUMMARY**

If approved, the front yard will be located on the Chef Andre Rochat Place frontage and the corner side occurs on the Seventh Street frontage. The reduced front yard setback allows for additional uncovered parking to the south of the building. The shorter setback on the corner side would allow for construction of a covered entry feature. As the hardship in this case is related to the building, not the shape of the property itself, it is self-imposed, and a Variance should therefore not be granted.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 08/17/81      The Board of Zoning Adjustment voted to Strike a request for a Variance (V-0048-81) to allow parking area in conjunction with a professional office building and voted to approve a Variance (V-0054-81) to allow a parking area in an R-3 (Medium Density Residential) Zone at 416 South 7th Street.
- 05/18/83      The Board of City Commissioners voted to approve a Variance (V-0016-83) to allow, as part of a larger request, a satellite patron parking lot on the subject site for a nearby restaurant where such use is not permitted in the R-3 (Medium Density Residential) District, at 408 South 7th Street. The Board of Zoning Adjustment recommended approval.
- 08/25/83      The Board of Zoning Adjustment voted to approve a Variance (V-0076-83) that reiterated the Variance previously approved through V-0016-83, and added that parking for the adjacent restaurant be approved for 46 spaces where 55 spaces are required, at 408 South 7th Street.
- 11/15/84      The Board of Zoning Adjustment voted to approve a Variance (V-0123-84) which reiterated the Variance previously approved through V-0016-83. The previous Variance had expired, since it had not been exercised by that date.

- 06/04/03 The City Council approved a Rezoning (ZON-2124) from R-3 (Medium Density Residential) to P-R (Professional Office and Parking), a Variance (VAR-2447) to permit 15 parking spaces where 26 spaces are the minimum required and a Site Development Plan Review (SDR-2125) and Waivers of the perimeter landscape requirement, parking standards, and loading zone requirement for a 7,804 square foot office conversion and addition on 0.32 acres on property located at 410 and 416 South 7th Street. The Planning Commission and staff recommended approval. The Resolution of Intent on these properties expired 06/04/05.
- 12/15/04 The City Council approved a Rezoning (ZON-5385) to P-R (Professional Office and Parking), a Variance (VAR-5388) to permit 5 parking spaces where 9 spaces are required, a Variance (VAR-5389) to reduce the lot width to 50 feet where 60 feet is the minimum width required for a P-R (Professional Office and Parking) zoned property and a Site Development Plan Review (SDR-5387) and a waiver of the perimeter landscaping requirements for a proposed 2,342 square-foot house conversion to an office at 408 South 7th Street. The Planning Commission and staff recommended approval.
- 06/01/05 The City Council approved a Review of Condition Number 16 of an approved Site Development Plan Review (SDR-5387) to eliminate the requirement for a joint access agreement with the abutting property for an approved 2,432 square foot conversion of a house to an office on 0.18 acres at 408 South 7th Street. Staff recommended approval.
- 08/24/06 The Planning Commission recommended approval of companion item ZON-15045 and ended in a tie vote which is tantamount to denial on companion items VAR-15048, VAR-15049 and SDR-15043 concurrently with this application.
- 08/24/06 The Planning Commission (3-3 vote on a motion for approval) ended in a tie vote which is tantamount to denial on (PC Agenda Item #47/ss).

***B) Pre-Application Meeting***

- 06/23/06 Application requirements for a Rezoning, parking variance and site review were discussed. Waivers are needed for landscape buffering on all sides except 7th Street. A reversionary or new subdivision map would be required as a condition of approval of the site. Issues included the possibility of no height restrictions if rezoned to C-1 and the proposal to move the existing house at 408 South 7th Street on top of the proposed two story structure. The applicant claimed that this constituted historic preservation and had the consent of the building owner. Staff recommended that changes be made to the angled parking configuration to reduce the chance that vehicles could back out onto the public right-of-way. It was noted that this project was located in the Las Vegas High School Neighborhood District, and that the two buildings on the site were contributing to the historic character of the neighborhood.

07/05/06 In a follow-up meeting, it was noted that a variance from the maximum lot coverage standard would be required and that the resolution of intent on two of the parcels had expired. Handicapped parking needs to be provided in the covered parking area as well as in the uncovered parking lot. Building code issues related to the relocation of the existing office on top of the proposed building would need to be discussed further in a meeting with the Building and Safety Department.

**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: 0.64

**B) *Existing Land Use***

Subject Property: Office, Single-Family Residential  
North: Multi-Family Residential (Apartments)  
South: Parking lot  
East: Las Vegas Academy Playing Fields and Tennis Courts  
West: Offices (condos), Parking, Restaurant

**C) *Planned Land Use***

Subject Property: C (Commercial)  
North: C (Commercial)  
South: C (Commercial)  
East: PF (Public Facilities)  
West: C (Commercial)

**D) *Existing Zoning***

Subject Property: R-3 (Medium Density Residential)  
R-3 (Medium Density Residential under Resolution of Intent to P-R  
(Professional Office and Parking)  
North: R-5 (Apartment)  
South: C-1 (Limited Commercial)  
East: C-V (Civic)  
West: C-1 (Limited Commercial)  
P-R (Professional Office and Parking)  
R-4 (High Density Residential)

**E) General Plan Compliance**

The subject site is designated C (Commercial) on the Downtown Redevelopment Area Land Use Map. Office, neighborhood service and general commercial uses are allowed in this area. The proposed rezoning to C-1 (Limited Commercial) would conform to the C (Commercial) classification, if approved.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>	<b>X</b>	
Redevelopment Plan Area	X	
<b>Special Overlay District</b>	<b>X</b>	
Historic Neighborhood	X	
<b>Trails</b>	<b>X</b>	
<b>Rural Preservation Overlay District</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>

**Redevelopment Area**

The subject site is located within the Downtown Redevelopment Area, where special funding may be available for proposed projects. Developments are subject to all requirements of Title 19.

**Historic Neighborhood**

The site is also located within the boundaries of the Las Vegas High School Neighborhood District. The district was listed in the National Historic Register on January 30, 1991. The National Historic designation of this property does not affect city of Las Vegas Zoning Code requirements, and separate reviews of this property are not required. The area contains the historic Las Vegas High School building and homes generally south of the school to Gass Avenue. It is noted that recent reviews by the Nevada State Historic Preservation Office have suggested that the Las Vegas High School Historic District is at risk for losing its recognition by the National Register due to significant inappropriate new development.

**Trails**

A multi-use transportation trail is anticipated on both sides of Seventh Street, including the area adjacent to this site. The developer is responsible for constructing the portion of the trail adjacent to the subject site.

## ANALYSIS

### A) *Zoning Code Compliance*

#### A1) Development Standards

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

<b>Standards</b>	<b>Required C-1</b>	<b>Requested</b>	<b>Compliance</b>
Min. Setbacks			
• Front	20 Feet	10 Feet	N
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	6 Feet	N
• Rear	20 Feet	56 Feet	Y
Max. Lot Coverage	50 %	55 %	N

The applicant proposes a 10-foot front yard setback where 20 feet is required in the proposed C-1 (Limited Commercial) zoning district. The amount of deviation is 50 percent from the standard. The applicant also proposes a six-foot corner side setback where 15 feet is the minimum required. The deviation is 60 percent.

A lot coverage variance (VAR-15048) and parking variance (VAR-15049) are required in addition to this request.

### B) *General Analysis and Discussion*

The proposed Variance is requested in conjunction with a proposed three-story office building on the site. If this project is approved, by condition the existing parcels must be merged together under common ownership. The front yard will then be located along Chef Andre Rochat Place. The C-1 (Limited Commercial) zoning district proposed for this site requires a 20-foot front yard setback from property line to building edge. Seventh Street becomes the corner side; the proposed building has a covered entry feature that encroaches 10 feet into the required corner side setback. As the hardship in this case is related to the building, not the shape of the property itself, it is self-imposed, and a Variance should therefore not be granted.

## FINDINGS

In accordance with the provisions of Title 19.18.070.B, the 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 19.18.070.L 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 overbuilding the site. A smaller building design would allow 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.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 19

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 3

**NOTICES MAILED** 127 by City Clerk

**APPROVALS** 0

**PROTESTS** 0