



## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: OCTOBER 18, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: - VAR-15323 - APPLICANT/OWNER: WALKFED, 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 Rezoning (ZON-14344) and Site Development Plan Review (SDR-14353) 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 residential adjacency setback of 35 feet where a 63-foot setback is the minimum required in the side yard on 1.51 acres at 837 Clarkway Drive.

**EXECUTIVE SUMMARY**

The southernmost two-story building does not meet Residential Adjacency requirements. This is primarily a single-family neighborhood with larger lots. In order to have a minimal effect on the surrounding area the proposed multi-family development should meet Residential Adjacency standards. The deviation is considered self-imposed as it is due to the applicants design choices. Denial of this request is recommended.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 01/26/06      The Planning Commission voted to abey a Site Development Plan Review (SDR-10796) and companion items for a General Plan Amendment (GPA-10789), a Rezoning (ZON-10792), and Variances (VAR-10793 and VAR-10795) for re-notification.
- 03/15/06      The applicant withdrew without prejudice a Site Development Plan Review (SDR-10796) and companion items for a General Plan Amendment (GPA-10789), a Rezoning (ZON-10792), and Variances (VAR-10793 and VAR-10795). The Planning Commission had recommended denial on 02/23/06. Staff also recommended denial.
- 05/17/06      The City Council approved a General Plan Amendment (GPA-9219) expanding the Redevelopment Area. This property was designated as MXU (Mixed Use) as part of this General Plan Amendment. The property had previously been designated as L (Low Density Residential). The Planning Commission and staff recommended approval.
- 09/21/06      The Planning Commission recommended denial of companion items ZON-15344 and SDR-14353 concurrently with this application.
- 09/21/06      The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #19/ng).

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

05/17/06 A pre-application meeting was held and elements of this submittal were discussed.

**C) *Neighborhood Meetings***

A neighborhood meeting is not required for a Variance, nor was one held.

**DETAILS OF APPLICATION REQUEST**

**A) *Site Area***

Gross Acres: 1.91  
Net Acres: 1.49

**B) *Existing Land Use***

Subject Property: Undeveloped  
North: Single Family Residential  
Utility  
South: Single Family Residential  
East: Single Family Residential  
West: Single Family Residential  
Duplex

**C) *Planned Land Use***

Subject Property: MXU (Mixed Use)  
North: R (Rural Density Residential)  
PF (Public Facilities)  
South: MXU (Mixed Use)  
East: MXU (Mixed Use)  
West: MXU (Mixed Use)

**D) *Existing Zoning***

Subject Property: R-E (Residence Estates)  
North: R-E (Residence Estates)  
South: R-E (Residence Estates)  
East: R-E (Residence Estates)  
West: R-E (Residence Estates)  
R-3 (Medium Density Residential)

**E) General Plan Compliance**

The subject property is designated as MXU (Mixed Use) through the expansion of the Downtown Redevelopment Area. The Mixed Use category allow for a mix of uses that are normally allowed within the L (Low Density Residential), ML (Medium Low Density Residential), M (Medium Density Residential), H (High Density Residential), O (Office), SC (Service Commercial), and GC (General Commercial) land use categories. The previous land use designation on the property was L (Low Density Residential) and the project calls for approximately 10.59 units per acre, which falls into the MLA (Medium Low Attached Density Residential) range. The proposed project is in compliance with the General Plan, but is considered inappropriate for this location as most of the surrounding area is larger single family lots.

<i>SPECIAL DISTRICTS/ZONES</i>	<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 Overlay District Buffer</b>	<b>X</b>	
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

**Rural Preservation Overlay District Buffer**

The proposed development is located in an area slated to be removed from the Rural Preservation Overlay District (RPOD); however, the property on the north side of Washington Avenue will remain in the RPOD, thus the subject property will be in the RPOD Buffer. The RPOD Buffer permits a maximum density of three dwelling units per acre. The proposed multi-family development would have a density of 10.59 units per acre. The proposed multi-family development is out of context with the intent of the RPOD and for this reason cannot be supported by staff.

**ANALYSIS**

**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 southern two-story building is located adjacent to a parcel zoned for single-family residential use. Per the 3:1 proximity slope requirements this building, with a height of 21 feet, shall be setback a minimum of 63 feet from the adjacent parcel. The proposed setback is 35 feet. This does not meet Residential Adjacency requirements and a Variance (VAR-15323) is required to permit this deviation from requirements.

***B) General Analysis and Discussion***

The deviation from standards is due to the applicants design choices for this site. A single story building in this location would mitigate the need for a Variance. This is a neighborhood with large lots and a rural character. Multi-family development in this area should meet Residential Adjacency standards in order to have a minimal effect on the surrounding single family lots. This is considered a self-imposed hardship and denial of this request is recommended.

**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 through their design choices. An alternative design with single-story development 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.

<b><u>SENATE DISTRICT</u></b>	4
<b><u>NOTICES MAILED</u></b>	259 by City Clerk
<b><u>APPROVALS</u></b>	0
<b><u>PROTESTS</u></b>	1