



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: AUGUST 23, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - VAR-22389 - APPLICANT/OWNER: V.P. PROPERTIES, LLC, ET AL

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the conditions for Rezoning (ZON-17304) and Site Development Plan Review (SDR-18676) if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow deviations from standards for residential adjacency for an existing two story accessory building on 0.58 acres at 715 Clarkway Drive. Specifically, this application requests deviations to allow a 15.2-foot residential adjacency setback where 54 feet is the minimum required for the west side of the property.

The applicant indicates that the existing accessory buildings that are to remain are used for storage of equipment and supplies. Further, the applicant proposes that a construction trailer (identified as a modular building) be sited on the property to provide auxiliary office space. Due to the self-imposed hardship inevitably created by attempting to convert a previously residential accessory structure, which has less restrictive standards, into a commercial accessory structure, denial of this request is recommended.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
10/03/79	The City Council approved a rezoning request (Z-0053-79) from R-E (Residence Estates) to P-R (Professional Offices and Parking) and R-3 (Limited Multiple Residence) on the site. The Planning Commission had recommended approval. This action has expired.
12/05/80	The Board of Zoning Adjustment approved a Use Permit (U-0075-80) to allow a juvenile consulting center on the site.
10/05/88	The City Council approved a request for a variance (V-0096-88) to permit a homeless shelter on the site, where not permitted.
06/19/02	The City Council tabled a request for a Special Use Permit (U-0037-02) to allow a building and landscape material yard at this location. The Planning Commission and staff recommended denial of this request.
10/16/02	The City Council approved a request for a Rezoning (Z-0067-02) to C-1 (Limited Commercial) and Site Development Plan Review [Z-0067-02(1)] to convert a 3,230 square foot existing single family residence into an office. The Planning Commission and staff recommended approval.
01/06/07	The Code Enforcement Division of the Department of Neighborhood Services issued a code violation notice regarding chain link fencing installed without a permit. The fencing had razor wire on top and created a landlocked neighboring property. Additionally, there was a construction trailer on site without a permit. This matter has been marked resolved as of 03/31/07.
07/12/07	The Planning Commission held this item in abeyance at the applicants request.

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08/23/07	A companion Rezoning (ZON-17304) and Site Development Plan Review (SDR-18676) will be heard concurrently with this item.
<i>Related Building Permits/Business Licenses</i>	
05/29/97	A building permit application, plan check M-3620-97, was submitted, approved, and issued for the site. This was for a plan check review to construct a chain link fence around an on-site well at 2020 West Bonanza Road. This permit (97011066) expired on 11/29/97.
08/18/99	A business license, C11-06982, for a Contractor category license was issued by the Department of Finance and Business Services. This license was re-issued due to a change of location on 06/13/06.
11/26/02	A building permit application, plan check L-5114-02, was submitted for the site. This was for a plan check review for the conversion of a single family dwelling at 2020 West Bonanza Road to an office occupancy. This permit (04004732) was reviewed and approved by the Planning and Development Department on 11/26/02 and issued by the Building and Safety Department 02/27/04. Project listed as completed on 10/06/04.
01/18/05	A business license, C40-00014, for a Concrete Pumping category license was issued by the Department of Finance and Business Services. This license was marked out of business on 12/06/06.
01/17/07	A building permit application, plan check L-0477-07, was submitted for the site. This was for a plan check review for the siting of a temporary modular building at 2022 West Bonanza Road for an office use. No permit has been reviewed or issued as of 05/24/07 for this application.
01/23/07	A building permit application, 80224-C-07, was submitted, approved, and issued for the site. This was for fencing (chain link) at 2020 West Bonanza Road. The project listed as completed/finished on 02/11/07.
<i>Pre-Application Meeting</i>	
09/21/06	A pre-application meeting was held. It was noted that the requested change would bring the site up to current requirements as the current use is non-conforming. A reversionary map would be required and it was stated that Bonanza is a Nevada Department of Transportation (NDOT) right-of-way.
<i>Neighborhood Meeting</i>	
08/07/07	<p>A neighborhood meeting was held at Southwest Design, 2020 West Bonanza Road. Two members of the public attended. The members of the public had the following questions or comments about the project:</p> <ul style="list-style-type: none"> • The residents want an eight-foot wall with landscaping installed around the perimeter of the property in accordance with code requirements. • The residents want the two outbuildings on the north end of the property demolished. • Parking for commercial vehicles should be on pavement for dust control/air quality.

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	<ul style="list-style-type: none"> • The residents have no objections to the rezoning or the use of the property, but want the property brought up to code. • The residents want dust control for any sand or gravel that may be stored on site. • No access should be permitted to Clarkway Drive. • The 25' access strip (to the well location) should either be purchased by the applicant or fenced.
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Field Check	
05/11/07	The Department of Planning and Development conducted a site visit that found that this was a developed site that includes the office building at the southeastern corner and various outbuildings towards the rear of the site. It was noted there is a number of vehicles parked on unpaved surfaces and that trash was piled in several locations. Finally, there is quite a bit of chain link fence both at the perimeter and internal to the site sectioning off areas, primarily at the rear.

Details of Application Request	
Site Area	
Net Acres	2.67

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Office, Other Than Listed	MXU (Mixed-use)	C-1 (Limited Commercial)
	Building & Landscape Material/Lumber Yard	MXU (Mixed-use)	R-E (Residence Estates)
North	Single Family Residential, Detached	MXU (Mixed-use)	R-E (Residence Estates)
South	Office, Other Than Listed	LI/R (Light Industry/Research)	C-M (Commercial/Industrial)
	Commercial Storage	LI/R (Light Industry/Research)	C-2 (General Commercial)
East	Office, Other Than Listed	MXU (Mixed-use)	C-1 (Limited Commercial)
	Single Family Residential, Detached	MXU (Mixed-use)	R-E (Residence Estates)
West	Single-family Residential, Detached	MXU (Mixed-use)	R-E (Residence Estates)

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
Redevelopment Plan Area	X		Y
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District	X		Y
Trails	X		Y
Rural Preservation Overlay District		X	n/a
Development Impact Notification Assessment		X	n/a
Project of Regional Significance		X	n/a

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 Feet	192 Feet	Y
Min. Setbacks (Primary Structure)			
• Front	20 Feet	51 Feet	Y
• Side	10 Feet	14.56 Feet	Y
• Corner	15 Feet	n/a	n/a
• Rear	20 Feet	> 20 Feet	Y
Min. Setbacks (Accessory Structure Existing Equipment Storage Building)			
• Front	20 Feet	> 20 Feet	Y
• Side	8 Feet	> 8 Feet	Y
• Corner	15 Feet	n/a	n/a
• Rear	10 Feet	> 10 Feet	Y
• Building Separation	6 Feet	> 6 Feet	Y
Min. Setbacks (Accessory Structure Existing Accessory Structure to Remain)			
• Front	20 Feet	> 20 Feet	Y
• Side	10 Feet	> 10 Feet	Y **
• Corner	15 Feet	n/a	n/a
• Rear	10 Feet	> 10 Feet	Y
• Building Separation	6 Feet	> 6 Feet	Y
Min. Setbacks (Accessory Structure Existing Bldg. to be Removed) *			
• Front	20 Feet	> 20 Feet	Y
• Side	10 Feet	0 Feet	N *
• Corner	15 Feet	n/a	n/a

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<ul style="list-style-type: none"> • Rear • Building Separation 	10 Feet 6 Feet	> 10 Feet > 6 Feet	Y Y
Min. Setbacks (Accessory Structure 720 SF Modular Bldg.)			
<ul style="list-style-type: none"> • Front • Side • Corner • Rear • Building Separation 	20 Feet 10 Feet 15 Feet 10 Feet 6 Feet	> 20 Feet 10 Feet n/a > 10 Feet > 6 Feet	Y Y n/a Y Y
Max. Lot Coverage	50 %	< 50%	Y
Trash Enclosure	Screened & Gated	Screened & Gated	Y
Mech. Equipment	Screened	Screened	Y

* The structure labeled as Existing Bldg. to be Removed has been conditioned, as a part of the Site Development Plan Review (SDR-18676), to be removed within 30 days of final action if the application is approved.

** The setback complies with C-2 (General Commercial) district standards, but does not comply with Residential Adjacency setbacks.

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	54 Feet	15.26 Feet	N *
Adjacent development matching setback	10 Feet	10 Feet	Y
Trash Enclosure	50 Feet from a protected property	> 50 Feet	Y

* If approved this variance will allow a residential adjacency setback of 15.26 feet where 54 feet would be required.

ANALYSIS

The subject site is located on the Southeast Sector Map of the General Plan. The site is designated as MXU (Mixed Use) on the Redevelopment Plan Area Map of the General Plan. This category allows 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) Master Plan land use categories. The project proposes to legitimize a building and landscape material/lumber yard use that is in conjunction with an office activity previously approved on the portion of this site that is presently zoned C-1 (Limited Commercial). The proposed building and landscape material/lumber yard use and the associated office use are permissible under the MXU (Mixed Use) designation.

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There is a companion Rezoning (ZON-17304) that proposes to change the entire project sites zoning from R-E (Residence Estates) and C-1 (Limited Commercial) to C-2 (General Commercial). The proposed C2 (General Commercial) zoning district is designed to provide the broadest scope of compatible services for both the general and traveling public. This category allows retail, service, automotive, wholesale, office and other general business uses of an intense character, as well as mixed-use developments. This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses. The existing and proposed uses established at this location are permissible, as a conditional use, in a C-2 (General Commercial) zoning district which is compatible with the MXU (Mixed Use) General Plan designation.

The site is within the McCarran International Airport Overlay Map portion of the Airport Overlay District. This is a developed site with an overlay height limitation of 140 feet and is in compliance with Title 19.06.080.

The site encompasses two parcels with a building built at the lot lines. Additionally, should the parcels in the future become separate developments the site will be placed out of conformance with the development standards for the C-2 (General Commercial) zoning district. For this reason a condition has been added to the Site Development Plan Review (SDR-18676) that prior to the issuance of any building or grading permits that a reversionary parcel map or administrative joining consolidating the parcels be recorded.

This variance has been submitted in conjunction with a proposed Rezoning (ZON-17304) to change the entire site area to a C-2 (General Commercial) zoning district and a Site Development Plan Review (SDR-18676) for an existing building and landscape material/lumber yard use with the addition of a construction trailer intended to serve as a auxiliary office.

The site is subject to the Residential Adjacency Standards due to the R-E (Residence Estates) zoned property to the east, west, and north of this property. The Proximity Slope uses a 3:1 calculation for determining what the distance from a protected property to a building on the subject site may be. The nearest existing building proposed to remain is on the west and is two stories and approximately 18 feet in height. Per the 3:1 slope requirement this would necessitate a residential adjacency setback of 54 feet. The existing building proposed to remain is only 15.26 feet from the western property line of the protected property, a reduction of more than 71 percent of the requirement. Staff is not in support of this variance request as this is a self-imposed hardship and therefore does not meet the criteria for granting a 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;

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- 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 attempting to convert a previously residential accessory structure, which has less restrictive standards, into a commercial accessory structure. Removal or relocation of the structure 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 17

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 183 [Mailed with ZON-17304 & SDR-18676]

APPROVALS 3

PROTESTS 5