



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: AUGUST 23, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-23144 - APPLICANT: ARBY'S - OWNER: BECKER
FAMILY TRUST

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the conditions Site Development Plan Review (SDR-20218) if approved.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a Request for a Variance to allow a 15-foot front yard setback where the Title 19.08.050 Commercial and Industrial District Development Standards require a 20-foot setback for a proposed restaurant.

Since this is a self-imposed hardship with a feasible remedy, Staff recommends denial of this request

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
There are no significant planning actions recorded against this property located at 315 South Decatur Boulevard.	
<i>Related Building Permits/Business Licenses</i>	
10/11/95	Business License #R09-00083: Restaurant seating for 45 or more.
<i>Pre-Application Meeting</i>	
7/13/07	A pre-application meeting was held with staff to discuss the applicants proposal to remove an existing restaurant (with drive through) and rebuild a new restaurant at a new location. Staff discussed the issues with not providing landscaping on the subject property, the existing signage located over the right of way, and the necessity for an approved Variance for the building to encroach in the front yard set back prior to approval of a Site Development Plan Review
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	
<i>Field Check</i>	
7/23/07	A field check was to the site was made with the following observations: <ul style="list-style-type: none"> • Existing restaurant located to the center-west of property. • There are 31 parking spaces on site. • Existing freestanding sign encroaches onto right-of-way. • No landscape buffers provided.
<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.46 acres

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Drive-through Restaurant	SC (Service Commercial)	C-2 (General Commercial) Zone
North	Restaurant	SC (Service Commercial)	C-2 (General Commercial) Zone
South	Commercial Center	SC (Service Commercial)	C-2 (General Commercial) Zone
East	Parking lot	SC (Service Commercial)	C-2 (General Commercial) Zone
West	ROW (Decatur) & Commercial Center	SC (Service Commercial)	C-2 (General Commercial) Zone

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District - 140 feet	X		Y
Trails		X	NA
Rural Preservation Overlay District		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following standards apply to the C-2 (General Commercial) Zoning District:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 feet	100 feet	Y
Min. Setbacks			
• Front	20 feet	15 feet	N
• Side	10 feet	5 feet	Y
• Rear	20 feet	115 feet	Y

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Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Parking Ratio</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurant	2,291 Sq. Ft.	1 space: 100 Sq. Ft GFA	23	2	25	2	
SubTotal			23		27		
TOTAL (incl. handicap)			23		27		Y
Loading Spaces			1		1		Y

ANALYSIS

The provided site plan shows a 2,291 square foot restaurant with a drive-through aisle located at the northwest corner of the subject site. The proposed location of the restaurant provides a 15-foot setback where the C-2 (General Commercial) Zoning District Development Standards require a 20-foot setback. As the applicant has provided four more parking spaces than what is required, there is adequate room to relocate the proposed restaurant an additional five feet to the provided 15-foot setback, thus conforming to Title 19.08.050.

Staff recommends denial in that no extraordinary circumstance has been demonstrated justifying the placement of the building five feet into the 20-foot setback area. Because this request would be better suited by redesigning the site plan, staff has recommended denial.

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

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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 remove the existing drive-through restaurant and locate the new restaurant within the established 20-foot front yard setback. This issue can be easily resolved by redesigning the site so that the restaurant is placed an additional five feet from the front property line. This would allow the applicant to meet the proposal-specific Title 19 requirements for drive-through stacking, parking, and design standards. 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.

<u>ASSEMBLY DISTRICT</u>	34
<u>SENATE DISTRICT</u>	3
<u>NOTICES MAILED</u>	147 [Mailed with SDR-20218]
<u>APPROVALS</u>	1
<u>PROTESTS</u>	0