



AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 15, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-19665 - APPLICANT/OWNER: CLOUDBREAK LAS VEGAS, LLC

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-21991), Waiver (WVR-19668), Variance (VAR-19666), Special Use Permit (SUP-19661), Special Use Permit (SUP-20052), Vacation (VAC-19669) and Site Development Plan Review (SDR-19659) 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 ****

PROJECT DESCRIPTION

This request is for a Variance to allow deviations from standards for setbacks, residential adjacency, and step backs from a collector street for a proposed expansion to an existing multi-family residential/single room occupancy residential building on 2.30 acres at 525 East Bonanza Road and 602 Encato Drive. Specifically, this application requests deviations to allow a ten foot step back from a primary arterial street where 44 feet is required, a front setback of ten feet where 20 feet is the minimum required, and a side yard setback of 8.5 feet where 10 feet is required in the proposed C-2 (General Commercial) zoning district. Finally, this application requests a deviation to allow a residential adjacency setback of 66.42 feet where 127.5 feet is the minimum required for the north side of the property.

This request is in addition to a Variance (VAR-19666) to allow a deviation from the required number of parking spaces. This location also serves as the operations/program site for the United States Veterans Initiative.

The applicant indicates that the existing building will be expanded to include 77 new residential units, 3,506 square feet of new dining and kitchen facilities, and 4,913 square feet of new office space/support facilities. Further, the applicant proposes a second, four-story building on the rear of the site that will accommodate an additional 34 residential units. Due to the self-imposed hardship inevitably created by the intensity of proposed development on the site, denial of this request is recommended.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
10/19/83	The City Council approved a Rezoning (Z-0076-83) to C-2 (General Commercial) on a portion of the subject site for a proposed hotel. The Planning Commission recommended approval.
08/21/02	The City Council approved a Special Use Permit (U-0077-02) and a Site Development Plan Review [Z-0076-83(2)] for a 216-unit single room occupancy residence, and a Variance (V-0042-02) to allow for reduced parking on a portion of the subject site. The Planning Commission and staff recommended approval.
10/01/03	The City Council approved an Extension of Time (EOT-2778) for the approved Variance (V-0042-02) to allow for a reduction in parking for the 216-unit single room occupancy residence on a portion of the subject site, with an expiration date of August 21, 2004. The Planning Commission and staff recommended approval.

08/18/04	The City Council approved an Extension of Time (EOT-4779) for the approved Variance (V-0042-02) to allow for a reduction in parking and an Extension of Time (EOT-4778) for the approved Site Development Plan Review [Z-0076-83(1)] for the 216-unit single room occupancy residence on a portion of the subject site, with an expiration date of August 21, 2006. Staff recommended approval.
07/12/07	The Planning Commission recommended approval of companion items ZON-21991, WVR-19668, VAR-19666, SUP-19661, SUP-20052, SUP-20822, VAC-19669 and SDR-19659 concurrently with this application. The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #24/rts).
<i>Related Building Permits/Business Licenses</i>	
09/11/91	A business license, H05-01011, for a Hotel - 199 rooms or less category license was re-classified from an A07 (Apartment House) category license by the Department of Finance and Business Services. Due to a change of name and ownership this license was re-issued on 07/24/00. *
03/16/06	A business license, N41-94602, for a NP Social Services category license was processed in by the Department of Finance and Business Services. This license was denied by the Planning and Development Department on 02/06/07, pending approval of a Special Use Permit (SUP-20052) for a Social Service Provider use. This license has not been issued as of 04/09/07.
03/19/07	A business license, N42-91916, for a NP Intermediary Housing category license was processed in by the Department of Finance and Business Services. This license was denied by the Planning and Development Department on 04/04/07, pending approval of a Special Use Permit (SUP-19661) for a Single Room Occupancy Residence use. This license has not been issued as of 04/09/07.
<i>Pre-Application Meeting</i>	
01/22/07	A pre-application meeting was held and elements of this application were discussed. Landscaping requirements and various Public Works concerns were talked about. Submittal requirements were discussed. NOTE: This pre-application meeting occurred prior to the determination that there would be a rezoning request to C-V (Civic) and development standards would be proposed by the applicant.
<i>Neighborhood Meeting</i>	
3/29/07	A neighborhood meeting was held at US. Veteran's Initiative 525 E. Bonanza Road. Seven members of the public attended. The applicant gave a thorough description of the proposed expansion plan and described the services that would be offered. No member of the public had questions or comments about the project. NOTE: This meeting was held prior to the present entitlement application configuration and was based on the C-V (Civic) zoning package.

*This license was issued with no apparent Planning and Development Department review.

Field Check	
03/14/07	The Department of Planning and Development conducted a site visit that found that the site was in operation as a multi-family residential/single room occupancy residence establishment. The social service provider use, United States Veterans Initiative Program, was active and utilizing both this principle site and the neighboring site (610 North Las Vegas Boulevard). The director gave a tour of the facilities used by the program and explained the process for residents to meet the qualifications for admittance.

Details of Application Request	
Site Area	
Gross Acres	2.77
Net Acres	2.30

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Multi-Family Residential/Single Room Occupancy Residence	MXU (Mixed Use)	C-2 (General Commercial)
	Single Family, Detached	MXU (Mixed Use)	R-1 (Single-Family Residential) [Proposed: C-2 (General Commercial)]
North	Office, Other Than Listed	MXU (Mixed Use)	C-2 (General Commercial)
	Government Facility	PF (Public Facility)	C-V (Civic)
	Single Family, Detached	MXU (Mixed Use)	R-1 (Single-Family Residential)
South	Multi-Family Residential	MXU (Mixed Use)	C-2 (General Commercial)
	Undeveloped	MXU (Mixed Use)	R-4 (High Density Residential) under Resolution of Intent to C-1 (Limited Commercial)
East	Government Facility	PF (Public Facilities)	C-V (Civic)
West	General Retail, Other Than Listed	MXU (Mixed Use)	C-1 (Limited Commercial)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan			
Downtown North Land Use Plan	X		Y
Redevelopment Plan Area	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	n/a
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 19.08.060, the following residential adjacency standards apply:

<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	10 Feet	N *
• Side	10 Feet	8.5 Feet	N *
• Corner	15 Feet	n/a	n/a
• Rear	20 Feet	20 Feet	Y **
Min. Setback from a Primary Arterial Street	44 Feet	10 Feet	N *
Min. Distance Between Buildings	n/a	20 Feet	n/a
Max. Building Height	n/a	53 Feet	n/a
Trash Enclosure	Screened and Covered	Screened and Covered	Y
Mech. Equipment	Screened	Screened	Y

* If approved this variance will allow a front setback of ten feet where 20 feet would be required and a side yard setback of 8.5 feet where 10 feet is required. Additionally, it would allow a step back from a collector street of ten feet where 44 feet would be required.

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

Pursuant to Title 19.08.060, the following residential adjacency standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	127.5 Feet	66.42 Feet	N *
Adjacent development matching setback	5 Feet	39.42 Feet	Y
Trash Enclosure	50 Feet	>50 Feet	Y

* If approved this variance will allow a residential adjacency setback of 66.42 feet where 127.5 feet would be required.

<i>Deviations from Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Percent Deviation</i>
Min. Setbacks <ul style="list-style-type: none"> • Front • Side 	20 Feet 10 Feet	10 Feet 8.5 Feet	50% Reduction 15% Reduction
Step back from Collector Street	1:1 Step Back Above 35 Feet (44 Feet)	10 Feet	≈77.27% Reduction
3:1 proximity slope	127.5 Feet	66.42 Feet	≈47.9% Reduction

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 expand the existing multifamily/single room occupancy residential establishment that provides an affordable housing option in the area and provides a veterans service program on the 2.77 acres site. The veterans service program is deemed a social service provider use. The proposed expansion of the existing multi-family residential/single room occupancy residence use and the addition of the social service provider use are permissible under the MXU (Mixed Use) designation.

There is a companion Rezoning (ZON-21991) that proposes to change a portion of the project sites zoning from R-1 (Single Family Residential) 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, with the approval of a Special Use Permit (SUP-19661 and SUP-20052), 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 200 feet and is in compliance with Title 19.06.080.

The site encompasses two parcels with a proposed 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-19659) 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 General Plan Amendment (GPA-20611) to change the designation to PF (Public Facilities) which is being withdrawn; Rezoning (ZON-19662) to change to C-V (Civic) zoning which is being withdrawn; Rezoning (ZON-21991) to change the entire project site to C-2 (General Commercial) zoning; Site Development Plan Review (SDR-19659) for a proposed expansion of 36,084 square feet to an existing building and to site a new 13,786 building; Variance (VAR-19666) to allow deviations from parking standards; two Special Use Permits (SUP-19661 and SUP-20052) to allow the expansion of the Single Room Occupancy Residential use and to allow the Social Service Provider use; a Waiver of Title 18.12.130 (WVR-19668) to allow a dead-end street after the vacation of a portion of Encanto Drive; and a Vacation (VAC-19669) of approximately 101 feet of Encanto Drive.

In addition to the deviations from development standards for setbacks, residential adjacency setback, and step back from a collector street addressed here, the project as proposed requires several landscape related waivers and deviations from parking standards. Staff is recommending denial on both the Site Development Plan Review (SDR-19659) and Variance (VAR-19666) due to the extent of the waiver requests and the self-imposed hardship generated by the proposed project.

The site is subject to the Residential Adjacency Standards due to the R-1 (Single Family Residential) zoned property to the 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 proposed buildings is four stories and approximately 42.5 feet in height. Per the 3:1 slope requirement this would necessitate a residential adjacency setback of 127.5 feet. The proposed building is only 66.42 feet from the southern property line of the protected property, a reduction of more than 47 percent of the requirement.

The proposed setback of ten feet on the southern side of the site does not meet the 20-foot setback requirement, a reduction of 50 percent, of the R-3 (Medium Density Residential) District nor does the proposed setback of 8.5 feet on the western side of the site meet the 10-foot setback requirements, a reduction of 15 percent. Further, the site does not meet the setback requirement of residential adjacency as described above. Finally, the site does not meet the 1:1 step back required of development that is adjacent to a collector street or larger. In this case the portion of the building above 35 feet should be stepped back to 44 feet by the top of the structure, there is no step back provided. 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;
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 exceeding the capacity of the site to meet development standards. A less intensive 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 9

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 207 by City Clerk

APPROVALS 2

PROTESTS 1