



AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 15, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-22675 - APPLICANT/OWNERS: CARDINAL GLOBAL HOLDING CORP AND HR HERITAGE LLC

**** CONDITIONS ****

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

Planning and Development

1. Conformance to the conditions for Rezoning (ZON-22673) and Site Development Plan Review (SDR-22674) 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a deviation from the residential adjacency standards for a multi-family apartment complex on 1.97 acres on the south side of Owens Avenue, approximately 570 feet west of Nellis Boulevard. The applicant indicates this will be an apartment complex consisting of four buildings of eight units each and that the proposed multi-family apartment complex will be the first constructed in the area in 20 years and will improve the quality and look of the neighborhood.

The General Plan Designation and other area multi-family development suggest that this will be an appropriate use at this site; however, the site as proposed incurs a self-imposed hardship and therefore staff is recommending denial of this item.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
07/02/86	The City Council approved a Rezoning (Z-0045-86) of one of the subject parcels to allow R-3 (Limited Multiple Residence) and a 20-unit apartment development. This approval received several extensions of time. The Planning Commission and staff recommended approval.
03/15/89	The City Council approved a Rezoning (Z-0002-89) of one of the subject parcels to allow R-3 (Limited Multiple Residence) and a 20-unit apartment development. The Planning Commission and staff recommended approval.
07/12/07	The Planning Commission recommended approval of companion items ZON-22673 and SDR-22674 concurrently with this application. The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #39/rts).
<i>Related Building Permits/Business Licenses</i>	
There are no building permits or business licenses related to this project approved or under review.	
<i>Pre-Application Meeting</i>	
04/17/07	A pre-application meeting was held and elements of this application were discussed. It was noted that this project will require a reversionary map and consultation with fire regarding the circulation. Public Works talked about the need for a deviation for throat depth and no need for a traffic study. Submittal requirements were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
05/11/07	The Department of Planning and Development conducted a site visit that found that this was a developed site where the older structure to the west is boarded up, while the structure to the east is occupied. The site is enclosed with chain link fencing and other than the two structures is unimproved.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	1.97
Net Acres	1.69

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single Family, Detached	M (Medium Density Residential)	R-2 (Medium Low Density Residential) [Proposed: R-3 (Medium Density Residential)]
North	Single Family, Detached	Clark County	Clark County: R-E (Rural Estates Residential)
	Multi-family Residential	Clark County	Clark County: R-3 (Multi-Family Residential)
South	Undeveloped	L (Low Density Residential)	R-E (Residence Estates)
East	Single Family, Detached	M (Medium Density Residential)	R-2 (Medium Low Density Residential)
West	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	n/a
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	n/a
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, the following development standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	73,722 SF	Y
Min. Lot Width	n/a	246 Feet	n/a
Min. Setbacks			
• Front	20 Feet	> 20 Feet	Y
• Side	5 Feet	> 5 Feet	Y
• Corner	5 Feet	n/a	n/a
• Rear	20 Feet	22 Feet	Y *
Min. Distance Between Buildings	10 Feet	> 10 Feet	Y
Max. Lot Coverage	n/a	41.9%	n/a
Max. Building Height	2 Stories or 35 Feet	2 Stories / 25 Feet	Y
Trash Enclosure	Screened and Gated	Screened and Gated	Y

* The setback complies with R-3 (Medium Density Residential) 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	75 Feet	22 Feet	N *
Adjacent development matching setback	35 Feet	22 Feet	N *
Trash Enclosure	50 Feet	107 Feet	Y

* If approved, this Variance would allow a residential adjacency setback of 22 feet where 75 feet would be required to meet the 3:1 Proximity Slope standard and 35 feet would be required to meet the matching residential setback standard. This would grant relief from the city standards.

<i>Deviations from Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Percent Deviation</i>
3:1 proximity slope	75 Feet	22 Feet	≈70.6% Reduction
Adjacent development matching setback	35 Feet	22 Feet	≈37.1% Reduction

ANALYSIS

The subject property is designated as M (Medium Density Residential) under the Southeast Sector Plan of the General Plan. This category includes a variety of multi-family units such as plexes, townhouses, and low-density apartments. This category allows up to 25 units per acre.

The proposed development will have a density of 18.9 units per acre and is in compliance with the General Plan.

The proposed rezoning to the R-3 (Medium Density Residential) zoning district will allow a residential density of 25 units per acre. The site plan proposes 32 apartment units, which will result in a density of 18.9 units per acre. Given the existing M (Medium Density Residential) General Plan designation, the requested rezoning request is appropriate for this site.

The site encompasses two parcels with proposed buildings built at or across the lot lines. Additionally, should the parcels in the future become separate sites the site will be placed out of conformance with development standards for the R-3 (Medium Density Residential) zoning district. For this reason a condition has been added that prior to the issuance of any building or grading permits that a reversionary parcel map or administrative joining consolidating the parcels be recorded.

The site is subject to the Residential Adjacency Standards due to the R-E (Residence Estates) zoned property adjacent to the southern portion of the project site. 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 proposed buildings are two stories and approximately 25 feet in height. Per the 3:1 slope requirement this would necessitate a residential adjacency setback of 75 feet. The nearest proposed building is only 22 feet from the northern property line of the protected property, a reduction of approximately 70.6 percent of the requirement. Additionally, the residential adjacency standards require that the setback adjacent to the protected property meet the setback of that protected property. For an R-E (Residence Estates) property the rear setback is 35 feet. The nearest proposed building is only 22 feet from the rear property line of the protected property, a reduction of approximately 37.1 percent of the requirement.

This variance has been submitted in conjunction with a proposed Rezoning (ZON-21712) to go from an R-2 (Medium-Low Density Residential) zoning district to an R-3 (Medium Density Residential) district and a Site Development Plan Review (SDR-22674) to site the 32 unit apartment facility.

The proposed setback of 22 feet on the southern side of the site does meet the 20-foot setback requirements of the proposed R-3 (Medium Density Residential) District. However, the setback proposed next to a protected single-family residential property does not meet the setback requirements of residential adjacency as described above; therefore, 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 proposing a structure that is too close to adjacent residential development based on its height. Alternative design and building location 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 0

ASSEMBLY DISTRICT 14

SENATE DISTRICT 2

NOTICES MAILED 132 by City Clerk

APPROVALS 0

PROTESTS 1