



## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: OCTOBER 17, 2007**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-23585 - APPLICANT: DRAKE REAL ESTATE SERVICES**  
**- OWNER: PECOS PARTNERS LLC**

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### **\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (5-1/sd vote) recommends APPROVAL, subject to:

#### **Planning and Development**

1. Conformance to the conditions for Site Development Plan Review (SDR-23581), and Variance (VAR-23588), Special Use Permit (SUP-23593) 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**

The project is a request for a Variance to allow a 50-foot Residential Adjacency Setback where 73 feet is the minimum required on 2.57 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road.

The project will result in structure that does not adequately address Title 19.08 Residential Adjacency Standards with regard to the required building setback from residential property. Staff recommendation is denial.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
03/22/61	The Board of City Commissioners approved a rezoning (Z-0007-61) of this site to C-1 (Limited Commercial).
04/19/00	The City Council approved a Variance (V-0101-99) for the east portion of this parcel to allow one building to have a 20 foot side yard setback where residential adjacency standards require a minimum 69 foot side yard setback, and to allow another building to have a 20 foot rear yard setback where residential adjacency standards require a minimum 60 foot rear yard setback.
04/19/00	The City Council approved a Special Use Permit (U-0151-99) to allow the off-premise sale of packaged liquor in conjunction with the Sav-On drug store located in the east portion of this parcel.
04/19/00	The City Council approved a Site Development Plan Review [Z-0007-61 (1)] for a proposed 29,647 square foot retail shopping center. The existing Sav-On drug store was the only structure constructed under this approval.
09/13/07	The Planning Commission recommended approval of companion item SUP-23593 and SDR-23581 and had no recommendation for VAR-23588 concurrently with this application.  The Planning Commission voted 5-1/sd to recommend APPROVAL (PC Agenda Item #33/ja).
<b><i>Related Building Permits/Business Licenses</i></b>	
NA	
<b><i>Pre-Application Meeting</i></b>	
06/27/07	A Pre-Application meeting was held where Planning Staff advised the applicants of the zoning and application requests required for a Site Development and associated deviations from residential adjacency and parking.
<b><i>Neighborhood Meeting</i></b>	
NA	

<b>Field Check</b>	
08/06/07	A site visit was performed and the subject parcel is a partially developed lot with an existing utility island with boxes and paved driveway. Existing landscaping is along the perimeter of the entire parcel includes palm trees.
<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	2.57 acres

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped dirt lot with utility boxes	SC: Service Commercial	C-1: Limited Commercial
North	Clark County Single family residential	Clark County Residential	Clark County - Residential
South	Single family residential	L: Low Density Residential	R-1: Single family residential
East	Commercial	SC: Service Commercial	C-1: Limited Commercial
West	Single family residential	L: Low Density Residential	R-1: Single family residential

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Area Plan</b>		X	NA
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>		X	NA
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08, the following Residential Adjacency Standards apply:*

<b>Residential Adjacency Standards</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
3:1 proximity slope	73 feet	50 feet	N*
Adjacent development matching setback	29 feet	50 feet	Y
Trash Enclosure	50 feet	55 feet	Y

## **ANALYSIS**

The project proposes a non-residential (commercial/retail) use next to an existing developed single family residential community. The building height combined with the difference in on and off-site (residential) pad elevations will result in a building height of 24.22 feet which, in accordance with the 3:1 Proximity Slope and Building setback requirements of Title 19.08 RAS, must provide a 73 foot setback from the residential property line. The project will result in a 50 setback from the south property line. Furthermore, the elevations do not include any architectural features that could reduce potential visual effects that neighboring residences may experience from the proposed structural footprint as designed.

## **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 non-residential use with a building height subject to the Residential Adjacency Standards of Title 19.08. An alternative design that reduces the building height and/or observes the required building setback from the residential property line 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** 5

**ASSEMBLY DISTRICT** 28

**SENATE DISTRICT** 2

**NOTICES MAILED** 926 by City Clerk

**APPROVALS** 0

**PROTESTS** 2