

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: FEBRUARY 28, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: VAR-26453 - APPLICANT: MOULIN ROUGE PROPERTIES, LLC - OWNER: MOULIN ROUGE PROPERTIES, LLC, ET AL**

**** CONDITIONS ******STAFF RECOMMENDATION: APPROVAL**, subject to:**Planning and Development**

1. Conformance to the conditions for Rezoning (ZON-26451), Special Use Permit (SUP-26452) and Site Development Plan Review (SDR-26449), if approved.
2. This approval permits a deviation from LVMC Title 19.08.050 (C) Table 1 Setback requirements to allow a zero-foot setback at the rear and side lot lines where the building is to be built across the required to be maintained lot lines.
3. This approval permits a deviation from LVMC Title 19.08.050 (C) Table 1 Maximum Lot Coverage requirements to allow a 100 percent lot coverage for the interior (historical Gaming Establishment, Non-restricted location) parcel and 57.7 percent overall where a lot coverage of 50 percent is the maximum that would otherwise be allowed.
4. 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 is a request for a Variance to allow a lot coverage of 100 percent where 50 percent is the maximum allowed and to allow a zero-foot setback to the rear and side property lines for a proposed Hotel and Gaming Establishment, Non-Restricted Development on 17.44 acres at the northwest corner of Bonanza Road and "H" Street. To meet current local zoning and state requirements the site must retain the ability to maintain the existing lot lines of the established Gaming Establishment, Non-Restricted use on the 5.44 acre parcel that is central to this development. Further, the majority of the standards that are not being met are internal to the project and will not impact or be observed by the community.

As this development furthers the goals and objectives of the West Las Vegas Plan and the General Plan it therefore requires and merits a variance from the strict application of the setback and lot coverage requirements of the C-2 (General Commercial) zoning district. The recommendation is for approval.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/01/67	The City Council approved a Rezoning (Z-0074-66) to C-M (Commercial / Industrial) for a portion of the subject site.
04/20/88	The City Council approved a request for a Special Use Permit (U-0025-88) to allow a 12-foot by 24-foot Off-Premise Advertising (Billboard) Sign at a height of 40 feet.
11/20/91	The City Council approved a request for a Special Use Permit (U-0251-91) to allow non-restrictive gaming in conjunction with an existing hotel.
04/21/93	The City Council approved a request for an Extension of Time for an approved Special Use Permit (U-0251-91) to allow non-restrictive gaming in conjunction with an existing hotel.
05/19/93	The City Council approved the required Five-Year Review of an approved Special Use Permit (U-0025-88) to allow a 12-foot by 24-foot Off-Premise Advertising (Billboard) Sign at a height of 40 feet.
12/15/97	The City Council revised the Zoning Code (Title 19A) to create a Historic Preservation Overlay District. The Moulin Rouge site was included within that district.
11/17/99	The City Council approved a request for a Special Use Permit (U-0103-99) for the expansion of a non-restrictive gaming establishment in conjunction with a proposed reopening of the Moulin Rouge Casino. The Planning Commission and staff recommended approval.

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02/27/08	The Historic Preservation Commission is scheduled to consider the applications associated with this project.
02/28/08	Companion items for a Rezoning (ZON-26451), Special Use Permit (SUP-26452) and a Site Development Plan Review (SDR-26449) will be heard concurrently with this item.
<i>Related Building Permits/Business Licenses</i>	
early 1955	A hotel/casino was constructed on this site.
06/01/90	A business license, B05-01776, for a Cosmetological Establishment category license for 820 West Bonanza Road, Suite 170 was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 07/12/90 and reissued on 11/28/05 due to a change of owner.*
04/03/91	A business license, H05-01010, for a Hotel - 199 rooms or less category license for 900 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 07/24/91 and reissued on 05/10/06 due to a change of owner. *
04/03/91	A business license, A07-01258, for an Apartment House category license for 920 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 03/26/92 and reissued on 11/17/06 due to a change of management.
12/23/91	A building permit application, plan check M-9381-91, was submitted for the site. This was for a plan check review for a certificate of occupancy for an apartment building at 920 West Bonanza Road. This permit (91130384) was by the Building and Safety Department 12/24/91. This permit received a final inspection on 04/30/92.
07/01/94	A business license, L13-00017, for a Nonprofit Club General category license for 812 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 09/01/94 and reissued on 02/16/06 due to a change of location.
10/09/96	A business license, M01-05354, for a Maintenance Services Janitorial category license for 820 West Bonanza Road, Suite 120 was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 10/15/96. *
08/21/00	A building permit application, plan check C-0036-00, was submitted for the site. This was for a plan check review for a non-work certificate of occupancy of an existing restaurant at 900 West Bonanza Road. This permit (00015579) was issued by the Building and Safety Department the same day as submitted. This permit received a final inspection on 08/22/00.
08/20/02	A building permit application, plan check L-6144-02, was submitted for the site. This was for a plan check review for a non-work certificate of occupancy at 900 West Bonanza Road. This permit (02015139) was issued by the Building and Safety Department the same day as submitted. This permit received a final inspection on 08/22/02.

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05/27/03	A business license, N31-00132, for a Nonprofit Community Service category license for 800 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 06/04/03. This license was marked out of business as of 10/03/06.
02/07/06	A business license, C30-01015, for a Convention Hall Gaming Tax category license for 900 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 06/28/06. This license was marked out of business as of 06/29/06. *
02/07/06	A business license, G08-00070, for a Gaming/Nonrestricted category license for 900 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 06/28/06. This license was marked out of business as of 08/08/06. *
11/17/06	A business license, A01-01327, for an Administrative Office Space category license for 800 West Bonanza Road was processed in by the Department of Finance and Business Services. This license was issued by Business Services on 12/01/06.
<i>Pre-Application Meeting</i>	
01/04/08	A pre-application meeting was held, where submittal requirements and elements of this application were discussed. Specifically, the preservation of the historic places designation and the need to retain the vested gaming parcel were addressed. As of the conclusion of the meeting additional discussions with the Building Department, City Survey and the applicant were still needed to work through the retention of the gaming parcels.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held for this application.	

* This business license has been issued with no indication that it was reviewed or approved by the Planning and Development Department.

<i>Field Check</i>	
01/28/08	The Department of Planning and Development conducted a site visit that found that the portions of the site are developed with offices, a social club (Elks Lodge), and other commercial activity. The apartment building at 920 West Bonanza Road is boarded up and most of the project area is fenced off.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	16.38 - Area of Rezoning (17.44 - Total Project Area)

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Office, Other Than Listed	MXU (Mixed Use)	C-2 (General Commercial)
	Commercial Center, Hotel, Multi-family Residential, and House of Worship	MXU (Mixed Use)	C-M (Commercial / Industrial) [Proposed: C-2 (General Commercial)]
	Undeveloped and Multi-family Residential	MXU (Mixed Use)	R-3 (Medium Density Residential) [Proposed: C-2 (General Commercial)]
North	Multi-family Residential	MXU (Mixed Use)	R-2 (Medium-Low Density Residential)
South	Office, Other Than Listed, Building & Landscape Material / Lumber Yard, Outdoor Storage, and Printing & Publication	Light Industrial / Research	M (Industrial)
East	House of Worship and Retail, Other Than Listed	MXU (Mixed Use)	R-3 (Medium Density Residential)
	Retail, Other Than Listed and Undeveloped	MXU (Mixed Use)	C-1 (Limited Commercial)
	Undeveloped	MXU (Mixed Use)	C-2 (General Commercial)
West	Office, Other Than Listed and Warehouse	MXU (Mixed Use)	C-M (Commercial / Industrial)
	Warehouse	MXU (Mixed Use)	R-3 (Medium Density Residential)
	Truck Rental	MXU (Mixed Use)	C-2 (General Commercial)

<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

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
G-O (Gaming Enterprise Overlay) District		X	n/a *
A-O (Airport Overlay) District (175)	X		N **
H (Historic Designation)	X		Y
Trails	X		Y
Rural Preservation Overlay District		X	n/a
Development Impact Notification Assessment	X		Y ***
Project of Regional Significance	X		Y ***

- * While not within an existing or proposed G-O (Gaming Enterprise Overlay) District, a portion of the site qualifies to maintain the existing Gaming Establishment, Non-restricted use within the area and to the extent authorized by local ordinance on December 31, 1996. This location is exempted from Gaming Enterprise Requirements per LVMC.6.40.150.
- ** The proposed height of the hotel tower, 420 feet, exceeds the height limitation of 175 feet for this area established by the North Las Vegas Airport Overlay Map portion of A-O (Airport Overlay) District. A companion Special Use Permit (SUP-26452) has been submitted pursuant to Title 19.06.080 and if approved would grant relief from the height limitation.
- *** Pursuant to Ordinance No. 5227, the project under review outlines a project that meets the threshold that defines a Project of Significant Impact as outlined in the ordinance for a development in excess of 300 units designated for tourist accommodations. The applicant has prepared and submitted, as part of the overall project submittal, an impact report as required by the Ordinance for referral to affected agencies. As of 02/13/08, no comments have been received from noticed agencies.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply:

<i>Overall Project Site</i>			
<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	n/a	744,876 SF	n/a
Min. Lot Width	100 Feet	> 100 Feet	Y
Min. Setbacks			
• Front	20 Feet	30 Feet	Y
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	15 Feet	Y
• Rear	20 Feet	20 Feet	Y

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Max. Lot Coverage	50%	57.7%	N *
Max. Building Height	n/a	420 Feet (41-Stories)	n/a
Trash Enclosure	Gated and Screened	Enclosure (A part of the building, access from north service drive)	Y
Mech. Equipment	Screened	Screened	Y

- * This request, if approved will grant relief from the city standard. Staff has recommended approval of the ultimate deviation (7.7 percent over the allowed developable site area) as the relief, if granted, will not create any substantial detriment to the public good, substantial impairment of affected natural resources or substantially impair the intent and purpose of any ordinance or resolution while furthering the goals and objectives of the West Las Vegas Plan and the General Plan.

Because the existing lot lines for Assessor Parcel Number 139-28-703-014 must remain as is in order to maintain the historically approved gaming establishment, non-restricted use, the project site must be reviewed from a zoning code perspective as two distinct sites even though it is intended as one development. The development standards when broken down to the two portions of this development are as follows:

<i>Gaming Establishment, Non-restricted Parcel</i>			
<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	n/a	236,966 SF	n/a
Min. Setbacks			
• Front	20 Feet	30 Feet	Y
• Side	10 Feet	0 Feet	N *
• Corner	15 Feet	n/a	n/a
• Rear	20 Feet	0 Feet	N *
Max. Lot Coverage	50%	100%	N *

- * This request, if approved, will grant relief from the city standard. The extent of the advertised deviation (a reduction of setbacks to zero feet and 100 percent lot coverage) are a result of the need to maintain the existing parcel lines and the relief, if granted, will not create any substantial detriment to the public good, substantial impairment of affected natural resources or substantially impair the intent and purpose of any ordinance or resolution while furthering the goals and objectives of the West Las Vegas Plan and the General Plan.

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<i>Remaining Parcels to be Consolidated</i>			
<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	n/a	507,910 SF	n/a
Min. Setbacks			
• Front	20 Feet	0 Feet	N *
• Side	10 Feet	0 Feet	N *
• Corner	15 Feet	15 Feet	Y
• Rear	20 Feet	20 Feet	Y
Max. Lot Coverage	50%	< 50%	Y

- * This request, if approved, will grant relief from the city standard. The extent of the advertised deviation (a reduction of setbacks to up to zero feet) are a result of the need to maintain the existing parcel lines of the gaming parcel that is central to this development and the relief, if granted, will not create any substantial detriment to the public good, substantial impairment of affected natural resources or substantially impair the intent and purpose of any ordinance or resolution while furthering the goals and objectives of the West Las Vegas Plan and the General Plan.

ANALYSIS

The subject site is located within the boundaries of the Las Vegas Redevelopment District of the Southeast Sector Plan of the General Plan, and is designated as MXU (Mixed Use). The MXU (Mixed Use) designation 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) General Plan land use categories. The proposed use is compatible with this land use designation and the neighboring zoning districts, which are intended for higher intensity commercial uses.

There is a Rezoning (ZON-26451) which proposes to change the zoning of most of the project site where the parcels are zoned C-M (Commercial/Industrial) and R-3 (Medium Density Residential) to a C-2 (General Commercial) zoning district. The uses proposed for this location are permissible in the proposed/existing C-2 (General Commercial) zoning district with the approval of the companion Special Use Permit (SUP-26452) and would then be consistent with the C-2 (General Commercial) zoning district and the MXU (Mixed Use) General Plan designation.

As previously noted, the parcels are within the boundaries of the Las Vegas Redevelopment Area, with a MXU (Mixed Use) land use designation. The proposed uses are in conformance with Redevelopment Plan policies that encourage innovative, mixed use projects in this area of the City. The proposed development is in compliance with the MXU (Mixed Use) designation.

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The site is within the North Las Vegas Airport Overlay Map portion of the A-O (Airport Overlay) District. The proposed height of the towers, 420 feet and 300 feet, exceeds the height limitation of 175 feet for this area. A Special Use Permit (SUP-26452) has been submitted pursuant to Title 19.06.080 and if approved would grant relief from the height limitation.

Further, the site is within the West Las Vegas Plan area at the southeastern edge of the plan boundaries. The area plan is intended to meet the General Plan Policy 2.3.2 requirement that a West Las Vegas Plan provide direction for West Las Vegas and adjacent areas. This policy is meant to achieve Goal 2 of the General Plan which is to ensure that mature neighborhoods will be sustained and improved through appropriate and selective high quality redevelopment and preservation.

While not within an existing or proposed G-O (Gaming Enterprise Overlay) District, a portion of the site qualifies to maintain an establishment with a valid non-restricted license that is outside a designated gaming enterprise district provided that there is no increase in the number of games or slot machines operated at the establishment beyond the number of games or slot machines authorized by local ordinance on December 31, 1996.

Pursuant to Title 19.08.050(C) Table 1, buildings on a C-2 (General Commercial) zoned property are to be set back a minimum of 20 feet from the front and rear property lines, 10 feet from the side property line and 15 feet from the corner side property line. Further, the maximum area available for development on a C-2 (General Commercial) zoned property is 50 percent.

Due to the need to maintain the existing lot lines for Assessor Parcel Number 139-28-703-014 so that the existing gaming use may be retained and the development as proposed would cross the lot lines, the development also requires zero-foot setbacks at the sides and rear of the gaming parcel and the corresponding sides of the consolidated parcel that will result from combining the remaining parcels. Finally, the overall development takes up 57.7 percent of the site area (100 percent of the gaming parcel). The development does not comply with the requirements of 19.08.050(C) Table 1, thereby requiring the submittal of this request.

This variance has been submitted in conjunction with a Rezoning (ZON-26451) to change a portion of the project site to a C-2 (General Commercial) zoning district, a Special Use Permit (SUP-26452) to allow a building height of 420 feet in the A-O (Airport Overlay) District, and a Site Development Plan Review (SDR-26449) to site a proposed hotel/casino development that consists principally of two hotel towers, 41 stories and 30 stories, that includes a total of 1,727 rooms, a 72,596 square-foot non-restricted gaming facility, and 381,734 square feet of commercial uses.

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:

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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.

The ability to maintain the existing lot lines of the established Gaming Establishment, Non-Restricted use on the 5.44 acre parcel that is central to this development and the ability to further the goals and objectives of the West Las Vegas Plan and the General Plan require and merit a variance from the strict application of the setback and lot coverage requirements of the C-2 (General Commercial) zoning district. The relief granted will not create any substantial detriment to the public good, substantial impairment of affected natural resources or substantially impair the intent and purpose of any ordinance or resolution. Therefore, staff recommends approval of this request.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 172

APPROVALS 7

PROTESTS 0