



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: APRIL 24, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-27318 - APPLICANT: KUMAR & RITU CHOPRA -**

**OWNER: JOE AND ANNE L PITMAN LIVING TRUST**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

***Planning and Development***

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-27316) 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.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This application is a request for a Variance to allow 17 parking spaces where 22 spaces are required and to allow zero loading spaces where Title 19.04.010 requires one loading space. The Site Plan depicts a proposed building of 2,950 square feet in size with a combination of a 1,700 square-foot restaurant with drive through and a 1,250 square-foot self service laundry facility. A related Site Development Plan Review (SDR-27316) will be considered concurrently with this request. The applicant is overbuilding the subject site resulting in a shortage of off-street parking, which is a self-imposed hardship; therefore staff recommends denial of this Variance request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
05/05/98	The Board of Zoning Adjustment approved a Variance (V-0014-98) which allowed 21 on-site parking spaces where 26 spaces were the minimum required in conjunction with a new fast-food restaurant at 412 N. Eastern Avenue.
02/09/99	The City Council approved a Rezone (Z-0085-98) on a property located on the south side of Cedar Avenue, approximately 150 feet east of Eastern Avenue from R-E (Residence Estates) to C-1 (Limited Commercial). The Planning Commission and staff recommended approval of this request.
<b><i>Related Building Permits/Business Licenses</i></b>	
There are no building permits or business licenses related to this request.	
<b><i>Pre-Application Meeting</i></b>	
02/29/08	A pre-application meeting was held to discuss the requirements of submitting a Site Development Plan Review application. At this time, the applicant was notified that a companion Variance would be needed with this request.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	
<b><i>Field Check</i></b>	
03/17/08	A field check was conducted and it was found that this property is currently undeveloped. The subject site can be accessed from Cedar Avenue and also Eastern Avenue. The adjacent property to the west allows this property access via a shared access agreement.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.26

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped Land	SC (Service Commercial)	C-1 (Limited Commercial)
North	Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential)
South	Convenience Store, Gas Station, Car Wash	SC (Service Commercial)	C-1 (Limited Commercial)
East	Convenience Store, Gas Station, Car Wash	SC (Service Commercial)	C-1 (Limited Commercial)
West	Fast food Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)

<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

Pursuant to Title 19.10, the following parking standards apply:

<i>Parking Requirement</i>							
<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	
Laundry Self-Service	1,250 SF	1/250 SF	5	0	5	0	N*
Restaurant 2000 SF or less	1,700 SF	1/100 SF	16	1	11	1	N*
<b>SubTotal</b>	2,950 SF		21	1	16	1	N*
<b>TOTAL</b>	2,950 SF		22		17		N*
Loading Spaces	2,950 SF	1/10,000 SF	1		0		N**
Percent Deviation			100%		22.8%		N

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\* This property has a shared parking agreement with the adjacent property. This agreement is not recognized by the Planning and Development Department because it does not satisfy the minimum requirements for Title 19.10.010(H) for Shared Parking.

\*\* The site plan depicts a loading space in the middle of the parking lot drive aisle, this is not a dedicated loading space and cannot be counted for this requirement.

### **ANALYSIS**

This application is a request for a Variance to allow 17 parking spaces where Title 19.04.010 requires a total of 22 spaces and to allow zero loading spaces where one loading space is required. The proposed building has 2,950 square feet with a combination of a 1700 square-foot restaurant with drive-through and a 1,250 square-foot self service laundry facility. A related Site Development Plan Review (SDR-27318) will be considered concurrently with this request. The applicant has overbuilt the subject site resulting in a shortage of off-street parking, which is a self-imposed hardship; therefore staff recommends denial of this Variance request.

### **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.

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by overbuilding the subject location. Alternatively, reducing the size of the proposed building 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** 8

**ASSEMBLY DISTRICT** 11

**SENATE DISTRICT** 10

**NOTICES MAILED** 141

**APPROVALS** 0

**PROTESTS** 0