

AGENDA MEMO

CITY COUNCIL MEETING DATE: MAY 7, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-26447 - APPLICANT: AHERN RENTALS - OWNER: DFA, LLC

THIS ITEM WAS HELD IN ABEYANCE FROM THE APRIL 2, 2008 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILMAN BARLOW.

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (4-3/bg, gt, se vote) recommends APPROVAL, subject to:

Planning and Development

1. This approval is limited to a maximum of 672 square feet.
2. Approval and Conformance to the Conditions of Approval for Rezoning (ZON-13896), Variance (VAR-13900), Variance (VAR-18250), Special Use Permit (SUP-13903) and Site Development Plan Review (SDR-13904) and Site Development Plan Review (SDR-26639) shall be required.
3. 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 is a request for a Variance to allow a 1,200 square-foot Off-Premise Digital (Billboard) Sign flush with the wall of the parking structure where 672 square feet is permitted and to allow the Off-Premise Digital (Billboard) Sign to be erected 58 feet above the elevation of the freeway where 30 feet above the elevation of the freeway is the maximum allowed on 2.61 acres at the southwest corner of Bonanza Road and Martin L King Boulevard.

There is no evidence that a unique or extraordinary circumstance has been presented. The applicant has created a self-imposed hardship in locating a 1,200 square-foot Off-Premise Digital (Billboard) Sign where 672 feet is required; therefore, staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/17/06	The City Council approved to Amend the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area. Planning Commission and Staff recommended approval.
01/11/07	Planning Commission approved a Variance (VAR-18250) to allow a proposed building to be five feet from the corner side property line where 15 feet is the minimum setback required on 2.61 acres at the southwest corner of Bonanza Road and Martin L. King Boulevard. Staff recommended approval.
01/17/07	The City Council approved a Rezoning (ZON-13896) from R-E (Residence Estates) to C-2 (General Commercial), a Variance (VAR-13900) to allow a front yard setback of 10 feet where 20 feet is required, a corner side yard setback of 10 feet where 15 feet is required, and a rear yard setback of 11 inches where 20 feet is required, a Special Use Permit (SUP-13903) for a 274-foot high building in the North Las Vegas Airport Overlay District, and a Site Development Plan Review (SDR-13904) for a commercial development consisting of a 3,000 square-foot, a 1,500 square-foot, and a 4,500 square-foot retail pad; a 20-story building consisting of 3,700 square feet of restaurant space, 10,000 square feet of retail space, 150,000 square feet of office space, and a 4,500 square foot child care facility; and a Waiver of the perimeter landscaping requirements on the subject site. Planning Commission and staff recommended approval on all related cases.
02/28/08	The Planning Commission recommended approval of companion items ROC-26778 and SDR-26639 concurrently with this application. The Planning Commission voted 4-3/bg, gt, se to recommend APPROVAL (PC Agenda Item #43/jm).

Related Building Permits/Business Licenses	
09/27/66	A building permit (#35098) was issued for Off-Premise Advertising (Billboard) Signs.
Pre-Application Meeting	
12/13/07	A pre-application meeting was held with the applicant. The applicant proposed to relocate the existing Off-Premise (Billboard) Sign off of Martin L. King Boulevard to the parking garage entitled as part of Site Development Plan Review (SDR-13904). The applicant proposed the new billboard on the parking garage be digital, larger and located 83 feet in height. Staff informed the applicant that this would require a Special Use Permit and Variance. Submittal requirements were then discussed. Later it was determined that after the approving of Ordinance #5959 that the Special Use Permit should be a Site Development Plan Review per Title 19.14.100 (G).

Field Check	
02/11/08	A field check was made on-site. The site currently has trucks and heavy machinery stored on site. A 288 square-foot Off-Premise (Billboard) Sign is located on the north side of Bonanza Road, approximately 185 feet west of Martin L. King Boulevard.

Details of Application Request	
Site Area	
Gross Acres	2.61

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	C (Commercial)	C-2 (General Commercial) and R-E (Residence Estates under Resolution of Intent to C-2 (General Commercial))
North	Mini-Mart	C (Commercial)	C-1 (Limited Commercial)
South	U.S. 95	Right-of-way	Right-of-way
East	Sears Service Center	LI/R (Light Industrial and Research)	M (Industrial)
West	Rental Shop; Warehouse	LI/R (Light Industrial and Research)	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
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (140 Feet)	X		N*
Trails	X		Y**
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

*Airport Overlay District

The subject property is located within the North Las Vegas Airport Overlay District which restricts the height of buildings to 140 feet. The proposed development, at 274 feet, exceeds this height. However, a Special Use Permit (SUP-13903) has been submitted to allow relief from this requirement.

**Pioneer Trail

The Pioneer Trail is an existing trail that runs along West Bonanza Road at the northern edge of the property. No additional requirements will be placed on the applicant as a result of this trail.

DEVELOPMENT STANDARDS

Standards	Code Requirement	Provided	Compliance
Location	No Off-Premise Advertising (Billboard) Sign may be located within the public right-of-way. May not be located within the Off-Premise Sign Exclusionary Zone except in exempted areas	Not Located within the Exclusionary Zone	Y
Zoning	Off-Premise Advertising (Billboard) Signs are permitted in the C-1, C-2, C-M and M Zoning Districts only	Located within a C-1 (Limited Commercial) zoning district	Y

Area	No Off-Premise Advertising (Billboard) Signs shall have a surface area greater than 672 square feet, except that an embellishment of not to exceed five feet above the regular rectangular surface of the sign may be added if the additional area contains no more than 128 square feet.	1,200 SF	N
Height	No higher than 40 feet from grade at the point of construction except as provided in subparagraphs (a) and (b) below. (a) An off-premise sign within 150 feet of the right-of-way line of an elevated freeway or high to which it is oriented may be erected 30 feet above the elevation of the elevated roadway surface nearest the sign	58 Feet above	N
Screening	All structural elements of an Off-Premise Advertising (Billboard) Sign to which the display panels are attached shall be screened from view.	Screened	Y
Off-Premise Advertisement (Billboard)	At least 300 feet to another Off Premise Sign	317 feet to another Off Premise Sign	Y
Off-Premise Advertisement (Billboard)	At least 750 feet to any other off-premise sign along the same frontage	465 feet	N#
Off-Premise Advertisement (Billboard)	At least 300 feet to the nearest property line of a lot in any R zoned district.	> 300 feet	Y
Other	All Off-Premise Advertising (Billboard) Signs shall be detached and permanently secured to the ground and shall not be located on property used for residential purposes.	Permanently secured to ground; located on strictly commercial property	Y

#Per Title 19.14.100 (G) Adjustments, Relocations, and Modifications of Signs Near Freeways.

ANALYSIS

The applicant is proposing a 20-foot by 60-foot (1,200 square-foot) Off-Premise Digital (Billboard) Sign flush with the wall of the parking structure at the southwest corner of Bonanza Road and Martin L King Boulevard. The applicant is requesting a Variance to allow a 1,200 square-foot Off-Premise Digital (Billboard) Sign flush with the wall of the parking structure where 672 square feet is permitted and to allow the Off-Premise Digital (Billboard) Sign to be erected 58 feet above the elevation of the freeway where 30 feet above the elevation of the freeway is the maximum allowed.

On 01/17/07 the City Council approved a Site Development Plan Review (SDR-13904) for a commercial development consisting of a 3,000 square-foot, a 1,500 square-foot, and a 4,500 square-foot retail pad; a 20-story building consisting of 3,700 square feet of restaurant space, 10,000 square feet of retail space, 150,000 square feet of office space, and a 4,500 square foot child care facility; and a Waiver of the perimeter landscaping requirements on the subject site. The applicant is placing the 1,200 square-foot Off-Premise Digital (Billboard) Sign on the southwest corner of the approved parking structure, which will be 83 feet in height.

There is presently one, 288 square-foot Off-Premise (Billboard) Sign on the parcel. The Off-Premise (Billboard) Sign, which was located on the southwest corner of Martin L. King Boulevard, approximately 100 feet south of Bonanza Road, was removed in December of 2007 for a publicly funded improvement widening project. The applicant proposes to relocate that sign to the approved parking structure.

Per Title 19.14.100 (G) the Director shall have the authority to grant approval, by means of a Minor Site Development Plan Review under Section 19.18.050 (F), to do any of the following regarding an off-premise sign within six hundred sixty feet of any highway classified by the State of Nevada as part of the interstate or primary highway system, and subject to the provisions of Paragraph (3) of this Subsection (G), no Special Use Permit or public hearing shall be required in connection therewith:

- (b) Relocate a sign to another location on the same existing parcel in order to achieve visibility that was obstructed by a noise abatement or highway improvement project.

Per 19.18.050 (G) a Major Review of a Site Development Plan is required if the Director determines that the proposed development could significantly impact the land uses on the site or on surrounding properties. The applicant is proposing a 1,200 square-foot Off-Premise (Billboard) Sign, which code permits a size no greater than 672 square feet, at a height that is 58 feet above the elevation of the freeway where 30 feet above the elevation of the freeway is the maximum. This application does not meet Title 19.14.100 Off-Premise Standards; therefore a Major Review is required. As companion item to this Variance, a Site Development Plan Review (SDR-26639) has been requested.

In addition, the proposed 1,200 square-foot Off-Premise Digital (Billboard) Sign is 440 feet from another sign along the same frontage where 750 feet is the maximum distance allowed. Per Title 19.14.100 (G) Adjustments, Relocations, and Modifications of Signs Near Freeways, the applicant is permitted to relocate a sign to another location on the same existing parcel in order to achieve visibility that was obstructed by a noise abatement or highway improvement project.

The applicant is proposing that the existing 288 square-foot Off-Premise (Billboard) Sign located on the north side of Bonanza Road, approximately 185 feet west of Martin L. King Boulevard, which was conditioned to be removed prior to the issuance of building permits per Condition #15 of Site Development Plan Review (SDR-13904), be relocated at a future time to the southwest portion of the site. The applicant has submitted a Review of Condition (ROC-26778).

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 designing a sign that is larger and located higher than Title 19 permits. Alternative design 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.

PLANNING COMMISSION ACTION

Condition #1 was added by the Planning Commission.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 23

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 102 by City Clerk

APPROVALS 0

PROTESTS 0