



AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 18, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-27696 - APPLICANT: NADA HADDAD - OWNER: 3140 VALLEY VIEW, LLC

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-1/sd vote) recommends APPROVAL, subject to:

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. Handicap parking spaces must be provided in accordance with LVMC Title 19.10 standards.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Variance to allow 42 parking spaces in a parking impaired commercial center, where Title 19.04.010 requires 46 parking spaces. The submittal of this request stems from a proposed restaurant wishing to locate within an existing parking impaired development. This commercial center would require a total of 81 parking spaces, a 48.1% deviation from current standards set in Title 19.04.010, however as previously stated, qualifies as a parking impaired development. The owner has increased the intensity of land use by leasing space to higher intensity uses such as a Beauty Salon, Restaurants and Laundry Self-Service facilities resulting in a severe shortage of off-street parking. The proposed 700 square-foot restaurant, which necessitates this request, is intended primarily for takeout, but does provide a 245 square-foot waiting and seating area. This commercial center is currently under-parked by 35 parking spaces according to current Title 19.04.10 requirements and this proposed use is a higher intensity than originally intended; therefore, staff recommends denial of this Variance request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
09/07/05	The City Council approved a Special Use Permit (SUP-7359) that allowed a Beer/Wine/Cooler, Off-Sale Establishment at 3140 South Valley View Boulevard, Suites #3-5. The Planning Commission and staff recommended approval.
12/06/06	The City Council approved a Required Review (RQR-15420) of an approved Special Use Permit (SUP-7359) that allowed a Beer/Wine/Cooler, Off-sale establishment at 3140 South Valley View Boulevard, Suites #3-5. The Planning Commission and staff recommended approval.
01/09/08	The City Council held a Special Use Permit (SUP-25032) for Packed Liquor Off-Sale at 3140 Valley View, suite #3 in abeyance until the 07/16/08 City Council meeting, as requested by the applicant. The Planning Commission and staff recommended approval of this Special Use Permit (SUP-25032) request.
05/22/08	The Planning Commission voted 6-1/sd to recommend APPROVAL (PC Agenda Item #30/ed).
<i>Related Building Permits/Business Licenses</i>	
05/22/97	A business license (R07-00104) was approved for a Restaurant Seating Under 45 at 3140 South Valley View, Suite #14.
10/14/97	A business license (F02-00179) was approved for a Finance Company at 3140 South Valley View, Suite #2.

08/10/04	A business license (M15-30801) was approved for Computer Sales and Service at 3140 South Valley View, Suite #4.
09/02/05	Business licenses (B21-00008 and T08-00004) were approved for Body Piercing at 3140 South Valley View, Suite #8.
06/13/06	A business license (R09-01351) was approved for a Restaurant Seating 45 or more at 3140 South Valley View, Suite #7.
06/29/06	Business licenses (G01-02257, L10-00262, W10-00134, C15-90755, C05-02471, C20-02257) were approved for Gaming Restricted, Beer/Wine/Cooler Off-Sale, Wire Transfer, Groceries, Tobacco Dealer Retail, Check Cashing and Convention Hall Gaming Tax at 3140 South Valley View, Suite #3.
08/18/06	Business license (B08-01145, B05-03019) was approved for a Beauty/Cosmetic Sales and a Beauty Salon at 3140 South Valley View, Suite #1.
10/05/06	A business license (L01-00180) was approved for a Laundromat Coin Operated at 3140 South Valley View, Suite #10.
04/26/07	A business license (W09-00024) was approved for a Water Store at 3140 South Valley View, Suite #13.
05/16/07	A business license (C23-00009) was approved for a Check Cashing Service Limited at 3140 South Valley View, Suite #3.
09/26/07	A building permit application (#98773) was received for Tenant Improvements at 3140 South Valley View, Suite #9 for Shish Kabob Palace. Approval of this application will allow this application to continue through the building permit process.
<i>Pre-Application Meeting</i>	
03/26/08	A pre-application meeting was held to discuss the requirements for submitting a Variance for a 700 square-foot restaurant located at 3140 Valley View.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
04/03/08	A field check was conducted and found that the subject site has only one vacant suite, where the proposed restaurant intends to locate. The handicap spaces provided by this commercial center are not to Title 19.10 standards. The site plan also depicts four additional parking spaces than the site has marked, which upon approval of this application these additional spaces will have to be added to be in conformance with the submitted site plan.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.84

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial/Retail	Light Industrial / Research	C-1 (Limited Commercial)
North	Office	Light Industrial / Research	C-1 (Limited Commercial)
South	Office	Light Industrial / Research	C-1 (Limited Commercial)
East	Commercial/Retail	Light Industrial / Research	M (Industrial)
West	Commercial/Retail	C-T (Commercial Tourist Clark County)	M-1 (Light Manufacturing Clark County)

<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		
A-O (Airport Overlay) District (175)	X		Y*
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

* A-O (Airport Overlay) District: This commercial center is located within the McCarran International Airport 175-foot height limitation contour. As this is an existing building, under the height limitation, the subject site conforms to the requirements of this overlay district.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Parking Ratio</i>	<i>Required Parking</i>		<i>Provided Parking</i>		<i>Compliance</i>
			Regular	Handi-capped	Regular	Handi-capped	
General Personal Service - Beauty Salon	7 Chairs	3/1 Chair	21 spaces				Y*

General Retail Store, Other than listed (Less than 3500 SF)	2,800 SF	1/175 SF	16 spaces				Y*
Financial Institution	700 SF	1/250 SF	3 spaces				Y*
Tattoo Parlor/ Piercing Studio	700 SF	1/250 SF	3 spaces				Y*
Laundry Mat Self Service	1,800 SF	1/250 SF	8 spaces				Y*
Restaurant, Less than 2,000 SF (without Drive-Through)	2,100 SF (Two Restaurants)	1/50 SF of public space + 1/200 SF	23 spaces				Y*
Proposed Restaurant less than 2,000 SF (without Drive-Through)	700 SF	1/50 SF of public space + 1/200 SF	7 spaces				N**
SubTotal			77 spaces	4 spaces	39 spaces	3 spaces	N**
TOTAL			81 spaces		42 spaces		N*
Percent Deviation			0%		48.1%		N**

* This commercial center was built in 1984 to applicable parking standards, therefore this center is considered a parking impaired development. The submitted material was inconsistent, including the submitted parking calculation; therefore staff conducted a new analysis for this application.

** This commercial center was originally developed for office use; the addition of this restaurant increases the intensity of the original entitled use and therefore requires the submittal of a Variance for the additional parking required. The handicap spaces provided by the site plan do not satisfy Title 19.10 requirements; a condition has been added to conform to the handicap design standards of this chapter.

ANALYSIS

This application is a request for a Variance to allow 42 parking spaces in a parking impaired commercial center, where Title 19.04.010 requires 46 parking spaces. A 700 square-foot restaurant is proposed for this site which has resulted in this Variance request. This commercial center was developed originally for office uses and would require three parking spaces for the subject 700 square feet. The proposed restaurant is a more intense use. Therefore, this use requires a total of seven parking spaces, four spaces deficient than the original entitlement. The proposed Variance (VAR-27696) has been submitted to allow this more intense use to occur in a parking impaired development.

This commercial center would require a total of 81 parking spaces, a 48.1% deviation from the current standards set forth in Title 19.04.010. This development has increased the intensity of this parking impaired development by leasing higher intensity uses such as a Beauty Salon, Restaurants and Laundry Self-Service facilities resulting in a severe shortage of off street parking. The proposed 700 square-foot restaurant is intended primarily for takeout, but does provide 245 square-foot waiting and seating area. This commercial center is under-parked by 39 parking spaces according to current Title 19.04.10 requirements and this use is a higher intensity than originally intended; therefore, staff recommends denial of this Variance request.

- **Handicap Accessibility**

The subject site provides a total of three handicap spaces, all of which are not compatible with the standards of Title 19.10. This development requires a total of two handicap accessible spaces per Title 19.10.010 (F). Of these three provided handicap spaces, one is required to be accessible to a vehicle with a side-loading wheelchair lift; the applicant has provided a space that satisfies the dimensional requirements, but does not have the required 36 inch accessible route in front of the space. The subject space is also located in the middle of the parking lot and is a substantial distance from the entrances of the commercial businesses. The other two handicap accessible spaces do not have the required accessible space dimensions, with only single five foot access isles where two are required. A condition has been added to bring these three handicap accessible spaces to the standards of Title 19.10.010.

- **Parking Impaired Development**

The proposed location is within a commercial center built in 1984 and is considered parking impaired with approximately 40 parking spaces, as per Title 19.10.010 (C), Parking Impaired Development:

A land use or building which is existing on the effective date of this Title and which complied with applicable parking standards at the time the use or building was established, but which does not comply with the requirements of this Section, shall not be considered a nonconforming use or nonconforming building; but rather, it shall be considered a parking-impaired development.

The proposed restaurant use is in a commercial center that was originally entitled as an office development; therefore this more intense use creates a parking inconsistency. Any change that requires an increase of parking spaces will result in additional parking space requirements as per Title 19.10.010 (C) (1):

For any change of use that requires an increase in the number of required parking spaces, only the increased number of parking spaces shall be required.

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 failing to meet the minimum parking standards, as it was originally intended to be an office development. Alternatively, an office use in the proposed 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 9

ASSEMBLY DISTRICT 10

SENATE DISTRICT 7

NOTICES MAILED 85 by City Clerk

APPROVALS 0

PROTESTS 0