



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: AUGUST 14, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE RENOTIFICATION - VAR-28326 - APPLICANT:
WASHINGTONPECOS, LLC - OWNER: MADRE MESA

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of an conformance to the Conditions of Approval for Special Use Permit (SUP-28323) and Site Development Plan Review (SDR-28320), 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance for to allow a 35-foot setback, where residential adjacency standards require 69 feet at the southeast corner of Washington Avenue and Pecos Road. This was originally noticed as a request to allow an 11.33foot setback, where residential adjacency standards require 60 feet; however, the applicant had submitted revised plans after the Public Notices had been sent out, which altered the Variance request. Most of the buildings on site are 15 feet in height, however a proposed Convenience Store at the northeast corner of the subject property is 23 feet in height and sits 35 feet from a residential use requiring this Variance.

The subject property is currently an undeveloped vacant lot surrounded by a City park as well as single and multi-family residential dwellings. Several companion items have been submitted in addition to this request, including a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps, a 748 square-foot Restaurant with Drive Through, a 2,406 square-foot Restaurant with Drive Through and an 8,937 square-foot retail building. This was previously noticed as a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps, a 748 square-foot Restaurant with Drive Through, a 2,608 square-foot Restaurant with Drive Through and a 9,449 square-foot retail building with a Waiver to allow a six-foot three-inch side yard landscape buffer where eight feet is required. Several changes have been made to the site plan resulting in a decrease in square footage of the retail building and the southernmost Restaurant with Drive Through as well as a site redesign which no longer necessitates the need for a Waiver of the landscape buffer along the east perimeter or an Exception for parking lot landscape finger islands.

Additionally, a Rezoning (ZON-28325) to change the zoning designation from R-1 (Single Family Residential) to C-1 (Limited Commercial), and a Special Use Permit (SUP-28323) for a Beer/Wine/Cooler Off-Sale Establishment within a proposed Convenience Store with a Waiver to allow a 100-foot distance separation, where 400 feet is required from a City Park has been submitted. The request for this Variance indicates that the site is overbuilt; therefore staff recommends denial of this Variance request.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
11/15/00	The City Council approved a request to amend a portion of the Southeast Sector of the General Plan (GPA-0025-00) from M (Medium Density Residential) to SC (Service Commercial), a request for a Rezoning (Z-0079-00) from R-1 (Single Family Residential) under Resolution of Intent to R-3 (Medium Density Residential) to C-1 (Limited Commercial) and a Site Development Plan Review [Z-0079-00(1)] with a Waiver of the required landscaping for a proposes 21,425 square-foot commercial center on 3.05 acres on the southeast corner of Washington Avenue and Pecos Road. The Planning Commission recommended approval of these requests while staff recommended denial.
04/12/01	The Planning Commission approved a request for a Tentative Map (TM-0010-01) for one lot commercial subdivision on 3.05 acres on the southeast corner of Washington Avenue and Pecos Road. Staff recommended approval of this request. This request expired 04/12/03.
02/05/03	The City Council approved a request for an Extension of Time (EOT-1287) on an approved Rezoning (Z-0079-00) from R-1 (Single Family Residential) under Resolution of Intent to R-3 (Medium Density Residential) to C-1 (Limited Commercial) on 3.05 acres adjacent to the southeast corner of Washington Avenue and Pecos Road. The Planning Commission and staff recommended approval of this request. The Resolution of Intent on this Rezoning expired 11/24/04.
04/22/05	A Code Enforcement Citation (#29171) was issued for overgrown weeds, trash and debris at a vacant lot at the southeast corner of Pecos Road and Washington Avenue.
10/22/07	A Code Enforcement Citation (#59043) was issued for vehicle code violations (numerous cars parked on a vacant lot) at the southeast corner of Pecos Road and Washington Avenue.
12/19/07	A Code Enforcement Citation (#60746) was issued for vehicle code violations (numerous cars parked on a vacant lot) at the southeast corner of Pecos Road and Washington Avenue.
12/26/07	Code Enforcement was called out to southeast corner of Pecos Road and Washington Avenue (#60844) to investigate abandoned vehicles on site. No abandoned vehicles were found on site at the time of inspection.

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07/10/08	The Planning Commission held in abeyance a request for a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps; a 748 square-foot Restaurant with Drive Through; a 2,608 square-foot Restaurant with Drive Through and a 9,449 square-foot retail building with a Waiver to allow a six-foot three-inch side yard landscape buffer, where eight feet is required, Rezoning (ZON-28325) to change the zoning designation from R-1 (Single Family Residential) to C-1 (Limited Commercial), a Special Use Permit (SUP-28323) for a Beer/Wine/Cooler Off-Sale Establishment within a proposed Convenience Store and a Variance (VAR-28326) to allow a 35-foot setback, where residential adjacency requires 69 feet at the southeast corner of Washington Avenue and Pecos Road in order for the applicant to revise the site plans to enhance onsite circulation.
<i>Related Building Permits/Business Licenses</i>	
There are no relevant permits or business licenses associated with this property.	
<i>Pre-Application Meeting</i>	
05/15/08	A pre-application meeting was held with the applicant where elements of submitting a Rezoning, Site Development Plan Review, Variance and a Special Use Permit were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held, nor was one required.	
<i>Field Check</i>	
06/04/08	A field check was performed by staff at the subject property. The site was noted to be relatively flat, undeveloped with numerous political advertising signs on the property.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.78

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	SC (Service Commercial)	R-1 (Single Family Residential)
North	Single-Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
South	Condominium Development	ML (Medium Low Density Residential)	R-PD12 (Residential Planned Development 12 Units per Acre)
East	Condominium Development	ML (Medium Low Density Residential)	R-PD12 (Residential Planned Development 12 Units per Acre)

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West	City of Las Vegas Public Park	PR-OS (Parks/ Recreation/Open Space)	C-V (Civic)
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<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			
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

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 Feet	215 Feet	Y
Min. Setbacks			
• Front	20 Feet	68 Feet	Y
• Side	69 Feet*	35 Feet*	N*
• Corner	15 Feet	35 Feet	Y
• Rear	20 Feet	57 Feet	Y
Min. Distance Between Buildings	10 Feet	30 Feet	Y
Max. Lot Coverage	50%	13.28 %	Y
Max. Building Height	N/A	15-25 Feet*	N *
Trash Enclosure	Enclosed, Screened	Enclosed, Screened	Y
Mech. Equipment	Screened	Screened	Y

* The Retail Pad and Fast Food #2 buildings are both 15 feet in height, and therefore are not subject to the residential adjacency standards if Title 19.08.060. The Convenience Store is 23 feet in height at the rear, which rises above the 3:1 residential adjacency proximity slope. A Variance (VAR-28326) has been submitted to allow a 35-foot setback, where 69 feet is required.

Pursuant to Title 19.08.060, the following standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	69 Feet	35 Feet	N*
Trash Enclosure	50 Feet	80 Feet	Y

* This Variance has been submitted to allow a setback of 35 feet, where 69 feet is required.

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ANALYSIS

The site plans submitted for the proposed development show a Convenience Store at the northeast corner of the property, 35 feet from the eastern property line. The provided elevations for the Convenience Store depict a single-story building with a 23-foot tall rear parapet. The rear of this building sits 35 feet from a residential use, where the 3:1 proximity slope requires a 69-foot setback. The other buildings on site near the residential property lines are all 15 feet in height; therefore the Convenience Store is the only proposed structure which requires a Variance. The need for this Variance indicates that the site as proposed is overbuilt; therefore staff recommends denial of this 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.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a wide variety of uses and buildings on the subject site. Alternatively, a redesign of the site plan, a reduction in scope of the proposed buildings, or lowering the height of the proposed convenience store to 15 feet 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.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 28

SENATE DISTRICT 10

NOTICES MAILED 589

APPROVALS 11

PROTESTS 14