



AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 6, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-28081 - APPLICANT/OWNER: DAVID MADDOX

**** CONDITIONS ****

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

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-28080) shall be required.
2. 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a 0.5-foot setback where 10 feet is required for an existing building on 0.48 acres at 3220 North Rancho Drive. The subject property has an existing non-permitted 1,600 square foot metal building located at the southeast corner of the site which the applicant requests to remain in place. The building is located 0.5 feet from the south property line where a 10-foot setback is required and 5.4 feet from the east property line where a 20-foot setback is required.

Additionally, as a companion item to this Variance, a Site Development Plan Review (SDR-28080) has been requested for an existing Building & Landscape Material/Lumber Yard with a Waiver to allow a zero-foot landscape buffer along the north, south and east perimeter where an eight-foot buffer is required. Due to the placement of this building and the need for a Variance of building setbacks on a large property which can easily accommodate the existing building elsewhere on site, staff recommends denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
10/20/76	The City Council rescinded an approval of a Variance (V-0049-75) which to allow a mobile home to be used as a security office and a residence on property located at 3340 North Rancho Drive, between Cheyenne Avenue and Ricky Road. The original approval was rescinded at a Variance Review because the applicants were no longer on the premises. The Board of Zoning Adjustment denied the original request.
05/22/80	The Board of Zoning Adjustment denied a request for a Special Use Permit (U-0026-80) to allow used car sales on property located at 3340 North Rancho Drive.
11/01/95	The City Council approved a Special Use Permit (U-0119-95) to allow a double-faced off-premise sign (billboard) at 3340 North Rancho Drive. The Board of Zoning Adjustment denied this request, staff recommended approval of this request.
07/17/02	The City Council approved a Special Use Permit (U-0052-02) to allow an open air vending/transient sales lot on property located at 3200 North Rancho Drive. The Planning Commission and staff recommended approval of this request.

10/29/03	The City Council approved a Required One Year Review (RQR-2792) of an approved Special Use Permit (U-0052-02) which allowed an open air vending/transient sales lot at 3200 North Rancho Drive. The Planning Commission recommended approval, whereas staff recommended denial of this request.
09/15/04	The City Council approved a Required Six Month Review (RQR-4264) of an approved Special Use Permit (U-0052-02) which allowed an open air vending/transient sales lot at 3200 North Rancho Drive. The Planning Commission and staff recommended denial of this request.
05/10/05	A Code Enforcement Citation was issued (#29775) for a showroom building being built without permits, cargo containers on site, an RV on site, and other miscellaneous zoning violations. This case was resolved on 05/24/06.
06/28/06	A Code Enforcement Citation was issued (#43853) for stagnant (green) water in pools and spas, trash and debris, weeds and illegal signage. This case was resolved on 10/04/06.
07/12/06	The City Council approved a Required One Year Review (RQR-11344) of an approved Special Use Permit (U-0052-02) which allowed an open air vending/transient sales lot at 3320 North Rancho Drive. The Planning Commission and staff recommended denial of this request.
07/12/06	The City Council accepted a withdrawal without prejudice of a Site Development Plan Review (SDR-11902) for a proposed 9,571 square-foot commercial building and a Waiver of the perimeter and parking lot landscape requirements, a Variance (VAR-11904) to allow 11 parking spaces where 33 spaces are required and to allow no loading zone where one is required for a proposed commercial building and a Variance (VAR-11981) to allow a five-foot side yard setback where 10 feet is required and to allow a five-foot rear yard setback where 20 feet is required on 0.49 acres at 3340 North Rancho Drive. The Planning Commission and staff recommended denial of these requests.
06/20/07	A Code Enforcement Citation (#54608) was issued for stagnant (green) water in pools. This case was resolved on 7/20/07.
02/25/08	A Code Enforcement Citation (#62631) was issued for non-permitted business activity, non-permitted warehousing/manufacturing on site and non-permitted fences and structures. This case is still open.
05/07/08	The City Council held in abeyance until 08/06/08va request for a Required One -Year Review of an approved Special Use Permit (U-0052-02) which allowed an open air vending/transient sales lot at 3320 North Rancho Drive. Staff recommended denial of this request.
06/26/08	The Planning Commission recommended approval of companion item SDR-28080 concurrently with this application. The Planning Commission voted 4-3/se, vq, ds to recommend APPROVAL (PC Agenda Item #30/dc).

<i>Related Building Permits/Business Licenses</i>	
04/14/05	A building permit (#27721) expired for a two-foot high retaining wall at 3340 North Rancho Road without receiving final inspection. This retaining wall extends across both 3340 and 3320 North Rancho Road and has a non-permitted six-foot high chain link fence placed on top. There are no permits for any of the existing buildings or internal fences located on site.
02/15/08	A business license review for Building Supplies and Hardware (spa sales) located at 3340 North Rancho Road was denied by Planning and Development as it: 1. Does not meet the minimum conditional requirements per Title 19.04.010 for the Building & Landscape Material/Lumber Yard use and, 2. Does not conform to condition number three of RQR-11344, which prohibited the expansion of the use (spa sales) onto 3340 North Rancho Road.
05/07/08	A business license for an Administrative Office located at 3340 North Rancho Drive is currently pending review by Planning and Development.
<i>Pre-Application Meeting</i>	
05/05/08	A pre-application meeting was held with the applicant where elements of a Variance submittal were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

<i>Field Check</i>	
05/21/08	A field check was conducted by staff at the subject property. The parking lot was paved and striped per Title 19 dimensional standards with one van accessible handicap space. Numerous weeds, litter, landscape with broken branches and a felled tree were observed in the landscape planter fronting Rancho Drive. A chain link fence with beige screening was observed adjacent to the parking lot, which in turn screens a large unpaved open lot with a second, screened chain link fence. Graffiti was noted at the front and rear of the subject parcel. A large, white metal building was located at the southeast corner of the parcel and a small wooden building was located near the northeast corner of the site.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.97

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Spa Sales and Spa Assembly	GC (General Commercial)	C-2 (General Commercial)
North	Office/Retail	GC (General Commercial)	C-2 (General Commercial)
South	Office/Retail	GC (General Commercial)	C-2 (General Commercial)
East	Vacant Land	GC (General Commercial)	C-2 (General Commercial)
West	Office/Retail and Vacant Land	GC (General Commercial)	C-2 (General 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			
A-O (Airport Overlay) District (70 Feet)	X		Y*
Trails	X		Y**
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

* The subject property is located within the North Las Vegas Airport Overlay within the 70-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.

** The subject site is located adjacent to the Rancho Corridor Trail Plan. The trail along this section has been installed.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	20,919 SF	N/A
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks			
• Front	20 Feet	140 Feet	Y
• Side (North)	10 Feet	11.7 Feet	Y
• Side (South)	10 Feet	0.5 Feet	N*
• Rear	20 Feet	5.4 Feet	N*
Max. Lot Coverage	50%	7.6%	Y
Max. Building Height	N/A	N/A	N/A
Trash Enclosure	Screened w/ Roof or Trellis	None	N**
Mech. Equipment	Screened	Screened	Y

* The applicant has submitted this Variance (VAR-28081) to allow a 0.5-foot setback where ten feet is required for an existing building.

** No trash enclosure was noted on site at the time the field check was performed and the site plans submitted do not account for a trash enclosure. A condition was added to the Site Development Plan Review (SDR-28080) requiring the applicant to construct a trash enclosure which meets the standards of Title 19.08.060.

ANALYSIS

The Variance requested is to allow an existing 1,600 square-foot non-permitted metal building to remain in place at the southeast corner of the subject property located at 3220 North Rancho Drive. The existing building sits 0.5 feet from the south property line where a 10-foot setback is required and 5.4 feet from the east property line where a 20-foot setback is required. The single-room building sits on a concrete pad and according to the justification letter has been on the site for over 20 years with no ill effects on the neighboring properties.

The site visit revealed that the building is quite massive in appearance and is sited poorly on the subject property. There is minimal screening of the building from a nearby residential neighborhood, and graffiti was noted on the rear of the structure. The physical size of the subject property is large enough to accommodate the building elsewhere on site, and had proper permits been obtained when the building was originally placed on site, correct building orientation could have been obtained.

The applicant has requested a Site Development Plan Review (SDR-28080) in addition to this request to allow the subject property to remain in its current configuration. A Waiver has been requested with the Site Development Plan Review to allow a zero-foot landscape buffer along the north, east and south perimeters of the subject property. Providing a landscape buffer along the perimeters of the subject property would help mitigate the appearance of this structure to the surrounding properties and slightly relocating the building northwest of its current location in order to meet the required C-2 (General Commercial) District setbacks would eliminate the need for this Variance. Staff can not support a Variance to allow this building to remain in its current location, therefore denial of this request is recommended.

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 allowing a non-permitted structure to remain on site. Alternatively, relocating the 1,600 square-foot metal building 10 feet north and 15 feet west 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 3

ASSEMBLY DISTRICT 1

SENATE DISTRICT 4

NOTICES MAILED 127 by City Clerk

APPROVALS 0

PROTESTS 3