



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: OCTOBER 23, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-29443 - APPLICANT/OWNER: ECT HOLDINGS, LLC**

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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 Variance (VAR-29494), and Site Development Plan Review (SDR-29440) shall be required, 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.

**VAR-29443 - Staff Report Page One**  
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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow 136 parking spaces where 158 are required for a proposed 39,420 square-foot Shopping Center at 1208 E. Charleston Boulevard. The subject Variance represents a 14% deviation from the required number of parking spaces. The percent deviation for the required number of loading zones is 50%. A reduction in overall square-footage would eliminate the need for the subject Variance. The applicant has created a self-imposed hardship by overbuilding the subject site. Therefore, staff is recommending denial of the subject application.

**BACKGROUND INFORMATION**

| <i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/24/97                                                                  | The Board of Zoning Adjustment approved a Special Use Permit (U-0001-97) to allow a 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign at 1208 E. Charleston Boulevard.                                                                                                                                                                                                                                                                                                                                                                        |
| 05/07/03                                                                  | The City Council approved a Site Development Plan Review (SDR-1877) and a Waiver of the perimeter and parking lot landscape finger island requirements for an Entertainment Venue including a Restaurant and Tavern; a Special Use Permit (SUP-1875) for a Tavern and a Waiver of the minimum distance requirement from a Tavern and protected uses; and a Variance (VAR-1879) to allow 172 parking spaces where 187 parking spaces are required at 1208 East Charleston Boulevard. The Planning Commission and staff recommended approval on 04/10/03. |
| 06/15/05                                                                  | The City Council approved an Extension of Time (EOT-6677) for an approved Site Development Plan Review (SDR-1877) which allowed an Entertainment Venue including a Restaurant and Tavern; an Extension of Time (EOT-6678) for an approved Special Use Permit (SUP-1875) which allowed a Tavern; and an Extension of Time (EOT-6679) for an approved Variance (VAR-1879) which allowed 172 parking spaces where 187 parking spaces are required at 1208 East Charleston Boulevard.                                                                       |
| 11/01/06                                                                  | The City Council approved a Required Five Year Review (RQR-15054) of an approved Variance (V-0068-90) which allowed a 40-foot tall, 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign 290 feet from an existing billboard where 300 feet is the minimum separation distance required at 1200 East Charleston Boulevard. The Planning Commission recommended approval on 08/24/06.                                                                                                                                                             |

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|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 04/12/07                                                 | An Administrative Site Development Plan Review (SDR-19934) was approved to allow a co-location of antennas on an existing 45-foot wireless communication facility, non-stealth at 1208 E. Charleston Boulevard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11/19/07                                                 | A Citation (#60000) was issued by Code Enforcement for trash and dumped items on the rear of the site at 1208 E. Charleston Boulevard. The issue was resolved on 11/29/07.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 03/11/08                                                 | A Citation (#63186) was issued by Code Enforcement for temporary window signage at 1208 E. Charleston Boulevard. The issue was resolved on 03/18/08.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 04/04/08                                                 | A Citation (#64160) was issued by Code Enforcement for graffiti at 1208 E. Charleston Boulevard. The issue was resolved on 04/15/08.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 10/23/08                                                 | The Planning Commission will consider a related Variance (VAR-29494) to allow a 15-foot front building setback where 20 feet is required and to allow a zero-foot corner side building setback where 15 feet is required and a Site Development Plan Review (SDR-29440) for a proposed 39,420 square-foot commercial development, which includes 14,320 square feet of new construction with Waivers of perimeter landscape buffer requirements to allow a 10-foot buffer along the north property line where 15 feet is required, to allow a five-foot buffer along the west property line where 15 feet is required, to allow a three-foot buffer along the east property line where eight feet is required and to allow a Waiver of the building placement standards. |
| <b><i>Related Building Permits/Business Licenses</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 08/07/90                                                 | A Building Permit (#M-3364-90) was issued for an Off-Premise Advertising (Billboard) Sign at 1200 E. Charleston Boulevard. The permit expired on 02/07/91.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 03/11/92                                                 | A Building Permit (#M-1245-92) was issued for a certificate of occupancy at 1208 E. Charleston Boulevard. The permit was finaled on 03/12/92.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/20/96                                                 | A Building Permit (#C-0180-95) was issued for a tenant improvement at 1208 E. Charleston Boulevard. The permit was finaled on 05/20/97.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 02/24/97                                                 | A Building Permit (#L-1106-97) was issued for a shelter and monopole at 1208 E. Charleston Boulevard. The permit was finaled on 03/17/97.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 03/08/01                                                 | A Building Permit (#L-5335-00) was issued for a tenant improvement at 1208 E. Charleston Boulevard. The permit was finaled on 11/21/01.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 08/14/02                                                 | A Business License (#D14-00027) was issued for a dance hall at 1208 E. Charleston Boulevard. The license was marked out on 12/14/07.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 09/24/02                                                 | A Business License (#M18-02484) was issued for management or consulting at 1208 E. Charleston Boulevard. The license was market out on 08/07/06.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 09/25/02                                                 | A Business License (#B23-00009) was issued for a banquet facility at 1208 E. Charleston Boulevard. The license was marked out on 07/07/06.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 01/02/03                                                 | A Business License (#L18-00021) was issued for a liquor caterer at 1208 E. Charleston Boulevard. The license was marked out on 12/01/05.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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|                                                            |                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/18/03                                                   | A Business License (#D14-00032) was issued for a dance hall at 1208 E. Charleston Boulevard. The license was marked out on 12/14/07.                                                                                                                                                           |
| 05/01/03                                                   | A Business License (#T26-00053) was issued for a temporary event operator at 1208 E. Charleston Boulevard. The license was market out on 04/18/07.                                                                                                                                             |
| <b><i>Pre-Application Meeting</i></b>                      |                                                                                                                                                                                                                                                                                                |
| 07/02/08                                                   | A pre-application meeting was held on the indicated date. The applicant indicated the proposed remodel and additions to the Huntridge site. The applicant was advised on the requirements for the subject Variance, Site Development Plan Review and related Variance needed for the proposal. |
| <b><i>Neighborhood Meeting</i></b>                         |                                                                                                                                                                                                                                                                                                |
| A neighborhood meeting was not required, nor was one held. |                                                                                                                                                                                                                                                                                                |

|                           |                                                                                                                                                                                                                                                   |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Field Check</i></b> |                                                                                                                                                                                                                                                   |
| 08/21/08                  | The field check indicated the vacant Huntridge Theatre building. The field check also indicated the placement of the two proposed buildings along Charleston Boulevard and the proposed second floor addition on the existing Huntridge building. |

|                                              |      |
|----------------------------------------------|------|
| <b><i>Details of Application Request</i></b> |      |
| <b><i>Site Area</i></b>                      |      |
| Net Acres                                    | 2.62 |

| <b>Surrounding Property</b> | <b>Existing Land Use</b>                         | <b>Planned Land Use</b>                                 | <b>Existing Zoning</b>                                        |
|-----------------------------|--------------------------------------------------|---------------------------------------------------------|---------------------------------------------------------------|
| Subject Property            | Huntridge Theatre                                | C (Commercial)                                          | C-2 (General Commercial)                                      |
| North                       | General Retail and Restaurant with Drive-Through | C (Commercial)                                          | C-2 (General Commercial)                                      |
| South                       | Single-Family Residential and Office             | SC (Service Commercial) and L (Low Density Residential) | C-D (Designed Commercial) and R-1 (Single Family Residential) |
| East                        | General Retail                                   | C (Commercial)                                          | C-2 (General Commercial)                                      |
| West                        | General Retail and Restaurant with Drive-Through | C (Commercial)                                          | C-2 (General Commercial)                                      |

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| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---------------------------------------------------|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            | X         | N/A               |
| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| <b>Special Purpose and Overlay Districts</b>      |            |           |                   |
| H (Historic Designation)                          | X          |           | Y*                |
| <b>Trails</b>                                     |            | X         | N/A               |
| <b>Rural Preservation Overlay District</b>        |            | X         | N/A               |
| <b>Development Impact Notification Assessment</b> |            | X         | N/A               |
| <b>Project of Regional Significance</b>           |            | X         | N/A               |

**Redevelopment Plan Area** The subject site is located within the boundaries of the Las Vegas Redevelopment District. The proposed uses are in conformance with Redevelopment Plan goals and policies that encourage innovative, mixed use projects in this area of the City.

**\* Huntridge Theatre** - The Huntridge Theater is not listed on the City of Las Vegas Historic Property Register; therefore, this project has not been reviewed by the City of Las Vegas Historic Preservation Commission. The project has been reviewed and approved by the State Historic Preservation Office. The Huntridge Theatre is listed on the state and National Register of Historic Places for its significant contribution to Las Vegas recreation and entertainment, and for its Streamline Moderne style of architecture. The theatre opened in 1944 as part of the Huntridge Neighborhood housing development, built in 1942. Designed by renowned theater architect S. Charles Lee, the Moderne style building was the premiere theater of the time. The building is one of the best and last remaining examples of Streamline Moderne in the City of Las Vegas.

## **DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08 the following standards apply:*

| <i>Standard</i>                          | <i>Required/Allowed</i> | <i>Provided</i> | <i>Compliance</i> |
|------------------------------------------|-------------------------|-----------------|-------------------|
| Min. Lot Size                            | N/A                     | 114,128 SF      | N/A               |
| Min. Lot Width                           | 100 feet                | 300 feet        | Y                 |
| Min. Setbacks                            |                         |                 |                   |
| • Front (north property line Building C) | 20 feet                 | 15 feet         | N*                |
| • Side (east property line Building C)   | 10 feet                 | 51 feet         | Y                 |
| • Corner (west property line Building A) | 15 feet                 | 0 feet          | N*                |
| • Rear (south property line Building A)  | 20 feet                 | 49.5 feet       | Y                 |
| Max. Lot Coverage                        | 50%                     | 35%             | Y                 |
| Max. Building Height                     | N/A                     | 75 feet         | Y                 |
| Trash Enclosure                          | Screened                | Screened        | Y                 |
| Mech. Equipment                          | Screened                | Screened        | Y                 |

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\* The applicant has failed to meet the minimum development standards for setbacks. An associated Variance (VAR-29494) has been submitted, which addresses these deviations from Title 19.06.010 requirements.

*Pursuant to Title 19.10, the following parking standards apply:*

| Parking Requirement |                                     |                                                 |         |              |          |              |            |
|---------------------|-------------------------------------|-------------------------------------------------|---------|--------------|----------|--------------|------------|
| Use                 | Gross Floor Area or Number of Units | Required                                        |         |              | Provided |              | Compliance |
|                     |                                     | Parking Ratio                                   | Parking |              | Parking  |              |            |
|                     |                                     |                                                 | Regular | Handi-capped | Regular  | Handi-capped |            |
| Shopping Center     | 39,420 square feet                  | 1 space per 250 square feet of gross floor area | 158     | 6            | 136      | 5            | N*         |
| TOTAL               |                                     |                                                 | 164     |              | 141      |              | N*         |
| Loading Spaces      |                                     |                                                 | 2       |              | 1        |              | N*         |

\* The percent deviation for the required number of parking spaces is 14%. The percent deviation for the required number of loading zones is 50%. Pursuant to Title 19.10 the applicant has failed to provide an adequate number of parking spaces for the proposed development. An associated Variance (VAR-29494) will be heard concurrently with the subject Site Development Plan Review.

## ANALYSIS

The applicant is requesting a Variance to allow 136 parking spaces where 158 are required pursuant to Title 19.040.010 requirements. The parking calculation is based upon the Shopping Center as the primary use. Parking requirements for Shopping Centers are calculated at one parking space per 250 square feet of gross floor area. A related Site Development Plan Review (SDR-29440) for a proposed 39,420 square-foot Shopping Center will be heard concurrently with the subject Variance. An additional Variance (VAR-29494) will be heard concurrently, to allow a 15-foot front setback where 20 feet is required and to allow a zero-foot corner side setback where 15 feet is required. The applicant has overbuilt the subject site resulting in a deviation of 14% for the required number of parking spaces and a 50% deviation for the required number of loading zones. The subject Variance has demonstrated that the applicant has created a self-imposed hardship; therefore, staff recommends denial of the subject application.

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**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 over building the subject site. Alternative site 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.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT**      12

**SENATE DISTRICT**      10

**NOTICES MAILED**      312

**APPROVALS**      2

**PROTESTS**      6