



AGENDA MEMO

CITY COUNCIL MEETING DATE: NOVEMBER 5, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-29730 - APPLICANT: TOWER REALTY AND DEVELOPMENT LLC - OWNER: CLARK COUNTY CREDIT UNION

**** CONDITIONS ****

The Planning Commission (3/sd/ds/bg-3/rt/se/vq-1/gt tie vote on a motion for approval) therefore,
NO RECOMMENDATION

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-15045), Special Use Permit (SUP-29306) and Site Development Review Plan (SDR-29051) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow zero-foot setbacks on all four sides of the property for a 52,498 square-foot, five-story Mixed-Use project on 0.64 acres at the southwest corner of 7th Street and Chef Andre Rochat Place. A Special Use Permit (SUP-29306) for a Mixed-Use project and a Site Development Review Plan (SDR-29051) are companion cases. The project includes seven, two-story condominium units and 45,422 square-feet of retail/office space. The two existing historic single-family residences will be destroyed. The Variance requesting zero-foot setbacks and thus no perimeter landscaping and nearly 100% lot coverage make this project incompatible with the surrounding neighborhood. As the hardship has been deemed to be a self-imposed; staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
Month/date/year	Action
08/17/81	The Board of Zoning Adjustment voted to Strike a request for a Variance (V-0048-81) to allow parking area in conjunction with a professional office building and voted to approve a Variance (V-0054-81) to allow a parking area in an R-3 (Medium Density Residential) zone at 416 South 7th Street.
05/18/83	The Board of City Commissioners voted to approve a Variance (V-0016-83) to allow, as part of a larger request, a satellite patron parking lot on the subject site for a nearby restaurant where such use is not permitted in the R-3 (Medium Density Residential) district at 408 South 7th Street. The Board of Zoning Adjustment recommended approval.
08/25/83	The Board of Zoning Adjustment voted to approve a Variance (V-0076-83) that reiterated the Variance previously approved through V-0016-83, and added that parking for the adjacent restaurant be approved for 46 spaces where 55 spaces are required, at 408 South 7th Street.
11/15/84	The Board of Zoning Adjustment voted to approve a Variance (V-0123-84) which reiterated the Variance previously approved through V-0016-83. The previous Variance had expired, since it had not been exercised by that date
06/04/03	The City Council approved a Rezoning (ZON-2124) from R-3 (Medium Density Residential) to P-R (Professional Office and Parking), a Variance (VAR-2447) to permit 15 parking spaces where 26 spaces are the minimum required and a Site Development Plan Review (SDR-2125) and Waivers of the perimeter landscape requirement, parking standards, and loading zone requirement for a 7,804 square-foot office conversion and addition on 0.32 acres on property located at 410 and 416 South 7th Street. The Planning Commission and staff recommended approval. The Resolution of Intent on these properties expired 06/04/05.

12/15/04	The City Council approved a Rezoning (ZON-5385) from R-3 (Medium Density Residential) to P-R (Professional Office and Parking; a Variance (VAR-5388) to permit 5 parking spaces where 9 spaces are required; a Variance (VAR-5389) to reduce the lot width to 50 feet where 60 feet in the minimum width required for a P-R (Professional Office and Parking) zoned property and a Site Development Plan Review (SDR-5387) and a Waiver of the perimeter landscaping requirements for a proposed 2,342 square-foot house conversion to an office at 408 South 7th Street. The Planning Commission and staff recommended approval.
06/01/05	The City Council approved a Review of Condition (ROC-6541) Number 16 of an approved Site Development Plan Review (SDR-5387) to eliminate the requirement for a joint access agreement with the abutting property for an approved 2,432 square-foot conversion of a house to an office on 0.18 acres at 408 South 7th Street. Staff recommended approval.
09/20/06	The City Council approved a Rezoning (ZON-15045) from R-3 (Medium Residential) to C-1 (Limited Commercial); a Variance (VAR-15048) to allow 55 percent lot coverage where 50 percent is the maximum lot coverage allowed; a Variance (VAR-15596) to reduce the front yard setback of 10 feet where 20 feet is the minimum setback required; and a Variance (VAR-15049) to allow 58 parking spaces where 79 spaces is the minimum required on 0.64 acres at the subject site.
09/25/08	The Planning Commission had no recommendation of companion items SUP-29306 and SDR-29051 concurrently with this application. The Planning Commission vote ended in a tie 3/sd/ds/bg-3/rt/se/vq-1/gt (PC Agenda Item #35/yk).
<i>Related Building Permits/Business Licenses</i>	
07/15/85	A Business License (Q13-00736) was issued for a Real Estate Business at 408 S. 7 th Street. The license expired on 07/15/08.
01/09/04	A Business License (Q01-00508) was issued for a Real Estate Business at 408 S. 7 th Street. The license expired on 07/15/08.
<i>Pre-Application Meeting</i>	
07/11/08	The applicant was informed of the requirements for a Site Development Review, Special Use Permit and Variance applications. It was noted that the applicant would also need to file an Extension of Time for the Rezoning (ZON-15045) application that is set to expire on 09/20/08.
<i>Neighborhood Meeting</i>	
N/A	No neighborhood meeting was required nor held for this application.
<i>Field Check</i>	
08/28/08	A field check showed that two vacant, boarded up single-family homes and a vacant lot were currently on the proposed site. This site is located directly across the street from the historic Las Vegas Academy High School grounds.

Details of Application Request	
Site Area	
Net Acres	0.64

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Vacant, Single-Family Residential	C (Commercial)	R-3 (Medium Density Residential) R-3 (Medium Density Residential under Resolution of Intent to P-R (Professional Office and Parking))
North	Multi-Family Residential (Apartments)	C (Commercial)	R-5 (Apartment)
South	Parking Lot	C (Commercial)	C-1 (Limited Commercial)
East	Las Vegas Academy High School Playing Fields & Tennis Courts	PF (Public Facilities)	C-V (Civic)
West	Restaurant/Offices	C (Commercial)	C-1 (Limited Commercial) P-R (Professional Office and Parking) R-4 (High Density Residential)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
H (Historic Designation)	X		N
Live/Work Overlay District	X		Y
Trails	X		N
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

Las Vegas High School Neighborhood Historic District. The subject property is located within the Las Vegas High School Historic District, which seeks to preserve and protect one of Las Vegas oldest neighborhoods. The District is not on the local City of Las Vegas historic property register. Most of the single-family homes in the district have been converted to professional office space

over the past decade.

Live/Work Overlay District. This site is within the Live/Work Overlay district. The proposed development will offer seven residential condominium units, separate from the retail/office spaces and thus is not impacted by the Live/Work standards as outlined in Title 19.06.130.

Trails. An off-street Multiuse Transportation Trail is shown along the Seventh Street right-of-way. This trail will be installed along the east side of the street and thus does not apply to this project.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	0.64	N/A
Min. Lot Width	100 Feet	140 Feet	Y
Min. Setbacks			
• Front	20 Feet	Zero Feet	N*
• Side	10 Feet	Zero Feet	N*
• Corner	15 Feet	Zero Feet	N*
• Rear	20 Feet	Zero Feet	N*
Min. Distance Between Buildings	N/A	N/A	N/A
Max. Lot Coverage	50%	100%	N*
Max. Building Height	N/A	71-9	N/A
Trash Enclosure	Gated, walled, roofed, 50 feet from residential	Within the parking garage	Y
Mech. Equipment	Screened	Screened	Y

* The applicant is requesting a Variance (VAR-29730) to allow zero-foot setbacks and 100% lot coverage for this project.

Pursuant to Title 19.08.06, the following Residential Adjacency Standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	N/A *	None	N/A *
Adjacent development matching setback	N/A *	None	N/A *
Trash Enclosure	N/A *	N/A*	N/A *

* This project is not located adjacent to a protected property and thus the Residential Adjacency requirements of Title 19.08.060 do not apply.

ANALYSIS

This Mixed-Use project features office/retail space on the ground floor with access off Chef Andre Rochat Place and access to seven two-story units off of 7th Street. The building is designed around a central parking garage with residential units on the 2nd and 3rd floors on the east side with office space on the entire 4th and 5th floors. The central lobby for all of the office spaces will be on the north side of the project.

The design of the building is very modern with a blue, grey and brown color pallet. The project is designed such that it will overwhelm the site by having 100% lot coverage. This will not permit any perimeter landscaping and thus have a negative impact on the historic neighborhood that it is located in. The Variance for zero-setbacks and 100% lot coverage needed for this project are not justified by the applicant. These conditions are a result of the over-design of the project given the lot size and are not supported by staff.

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 designing the project that includes 100% lot coverage and zero-foot setback from all property lines. 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.

PLANNING COMMISSION ACTION

There was one speaker in opposition at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 17

ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 126 by City Clerk

APPROVALS 1

PROTESTS 2