



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-32448 - APPLICANT/OWNER: O & A PROPERTIES, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-32447) 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a building setback of 43 feet where Residential Adjacency standards require 96 feet; a five-foot front yard setback where 25 feet is required; and a seven-foot corner side setback where 15 feet is required for a proposed 2,672 square-foot, two-story office building on 0.16 acres at 1141 South Maryland Parkway. This Variance request for a reduction of the required setback distances is the result of a self-imposed hardship that could have been alleviated through alternative site design; therefore, staff is recommending denial of this application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/21/74	The Board of Commissioners approved a request for a Plot Plan Review (Z-0028-68) for a commercial building addition at 1141 S. Maryland Parkway. The Planning Commission recommended approval.
10/03/74	The Board of Zoning Adjustment approved a request for a Variance (V-0063-74) to allow a zero-foot front yard setback where 25 feet is required for a commercial building addition at 1141 S. Maryland Parkway.
<i>Related Building Permits/Business Licenses</i>	
07/23/98	A building permit (#98014979) was issued for a sign at 1141 S. Maryland Parkway. The permit expired on 01/23/99.
12/15/05	A building permit (#6000374) was issued for a non-work certificate of occupancy at 1141 S. Maryland Parkway. The permit was finaled on 02/16/06.
05/05/06	A building permit (#62321) was issued for a wall/fence at 1141 S. Maryland Parkway. The permit was finaled on 07/21/06.
11/05/04	A business license (#B20-01477) was issued for a business support service at 1141 S. Maryland Parkway, Suite #110. The license was marked as expired on 12/15/08.
10/26/05	A business license (#M09-00101) was issued for a mail box center at 1141 S. Maryland Parkway, Suite #110. The license was marked out of business on 04/27/07.
03/06/06	A business license (#H14-91971) was issued for a residential home health provider at 1141 S. Maryland Parkway, Suite #170. The license was marked out of business on 11/02/06.
07/24/06	A business license (#H14-97002) was issued for a residential home health provider at 1141 S. Maryland Parkway, Suite #110. The license was marked out of business on 10/24/06.

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04/10/07	A business license (#C07-03676) was issued for a clothing store at 1141 S. Maryland Parkway, Suite #110. The license was marked out of business on 03/18/08.
07/17/08	A business license (#M09-00122) was issued for a mail box center at 1141 S. Maryland Parkway, Suite #110. The license is still active.
<i>Pre-Application Meeting</i>	
11/26/08	A pre-application meeting was held to discuss the requirements for Site Development Plan Review and Variance applications.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was neither required nor held.	

<i>Field Check</i>	
12/24/08	A field check was conducted by staff. The subject site contains an office building and is generally clean and well-kept.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.18 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Office	SC (Service Commercial)	C-D (Designed Commercial)
North	Office	SC (Service Commercial)	C-D (Designed Commercial)
	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
South	Office	SC (Service Commercial)	C-D (Designed Commercial)
East	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
West	City Park	PR-OS (Parks/Recreation/Open Space)	C-V (Civic)

<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	N/A
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

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DEVELOPMENT STANDARDS*Pursuant to Title 19.08, the following standards apply:*

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	N/A	8,164 SF	Y
Min. Lot Width	100 Feet	82 Feet	Y*
Min. Setbacks			
• Front	25 Feet	5 Feet	N**
• Side	10 Feet	43 Feet	Y
• Corner	15 Feet	7 Feet	N**
• Rear	15 Feet	40 Feet	Y
Max. Lot Coverage	30%	19%	Y
Max. Building Height	Lesser of 2 stories or 35 feet	2 Stories (32 Feet)	Y

This is a legally non-conforming lot for the minimum required width.**This Variance has been submitted to allow a five-foot front yard setback where 25 feet is required (an 80% deviation); and a seven-foot corner side setback where 15 feet is required (a 5% deviation).*

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	96 Feet	43 Feet	N*
Adjacent development matching setback	5 Feet	43 Feet	Y
Trash Enclosure	50 Feet	Not Shown	N**

This Variance has been submitted to allow a building setback of 43 feet where residential adjacency standards require 96 feet (a 55% deviation).**A condition has been added to the associated Site Development Plan Review (SDR-32447) to require that any trash enclosure provided on the site meet all requirements of Title 19.08.***ANALYSIS**

This is a request for a Variance to allow a building setback of 43 feet where Residential Adjacency standards require 96 feet; a five-foot front yard setback where 25 feet is required; and a seven-foot corner side setback where 15 feet is required for a proposed 2,672 square-foot, two-story office building on 0.16 acres at 1141 South Maryland Parkway. Approval of this request will result in a site that is overbuilt, and will not be compatible with the corresponding setback requirements of the adjacent residential development. As this Variance request for a reduction of the required setback distances is the result of a self-imposed hardship that could have been alleviated through alternative site design, staff is recommending denial.

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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 proposing to over build the 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 16

ASSEMBLY DISTRICT 9

SENATE DISTRICT 10

NOTICES MAILED 285

APPROVALS 1

PROTESTS 1