



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: FEBRUARY 26, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-32995 - APPLICANT: AMVIN, LLC - OWNER: BECKER AND SONS, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (V-0111-91), Special Use Permit (SUP-32994) and Site Development Plan Review [Z-0042-84(4)], if approved.
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.
3. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Variance to allow for 119 parking spaces where 126 are required on a parking impaired site for a proposed 1,000 square-foot expansion to an existing Restaurant with Service Bar at the southeast corner of Rainbow Boulevard and Lake Mead Boulevard.

There is already a previously approved Variance (V-0111-91) for reduced parking on the subject site. In addition, the subject site is considered to be a parking impaired site which does not meet the current Title 19.04 parking requirements. The proposed expansion of the restaurant use is deemed to be self-imposed hardship that could be alleviated by proposing other compatible uses that will not exacerbate the existing parking impairment; therefore, staff is recommending denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
10/03/84	The City Council approved a Rezoning (Z-0042-84) from N-U (Non-Urban) to C-1 (Limited Commercial) on the subject property as part of a larger request.
02/5/86	The City Council approved an extension of time [Z-0042-84(1)] for an approved Rezoning (Z-0042-84) on the subject site. The Planning Commission recommended approval.
02/4/87	The City Council approved an extension of time [Z-0042-84(2)] for an approved Rezoning (Z-0042-84) on the subject site. The Planning Commission recommended approval.
04/20/88	The City Council approved an extension of time [Z-0042-84(3)] for an approved Rezoning (Z-0042-84) on the subject site. The Planning Commission recommended approval.
09/12/89	The City Council approved a request for a Plot Plan and Building Elevation Review [Z-0042-84(4)] for a proposed Gas Station Convenience Store on the subject site.
04/8/90	The City Council approved an extension of time [Z-0042-84(5)] for an approved Rezoning (Z-0042-84) on the subject site. The Planning Commission recommended approval.
10/12/89	The Planning Commission approved a Site Development Plan Review [Z004284(4)] for the subject shopping center.
01/29/91	The City Council approved a request for a Special Use Permit [U-0023-91] to allow gasoline sales in conjunction with a proposed Convenience Store on the subject site.

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04/03/91	The City Council approved a Special Use Permit (U-0274-90) to allow the sale of beer and wine for off-premise consumption in conjunction with a proposed Convenience Store; as well as a Tavern in conjunction with a proposed restaurant within the subject shopping center, including a Waiver to allow the tavern to be closer than 1500 feet to an existing Church.
07/22/91	The City Council approved a request for a Variance (V-0111-91) to allow 110 parking spaces where 121 parking spaces are required on property located at the southeast corner of Lake Mead Boulevard.
02/20/02	The City Council approved a request for a Special Use Permit (U-0148-01) to allow a Restaurant with Service Bar in conjunction with an existing restaurant at the subject location. The Planning Commission and staff recommended approval.
01/19/07	The City Council approved a Special Use Permit (SUP-19296) request for a proposed Auto Title Loan Establishment and a Waiver of the 200-foot distance separation requirement from residentially zoned property.

Related Building Permits/Business Licenses

12/16/91	A building permit (#9112943) for a Tenant Improvement to an existing commercial building was issued for the subject restaurant.
07/09/96	A business license (#R07-00458) was issued for a Restaurant seating 45 or more at 1974 North Rainbow Boulevard. The license was reclassified to (#R09-01031) on 03/09/01. The license is currently active.
06/24/02	A business license (#L09-00186) was issued for a Beer/Wine/Cooler On-Sale Establishment at 1974 North Rainbow Boulevard. The license is currently active.

Pre-Application Meeting

12/30/08	The requirements for a Variance and Special Use Permit application were discussed with the applicant.
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Neighborhood Meeting

A meeting was not held, nor was one required.

Field Check

01/21/09	Staff conducted a field check of the subject site and found it to be in operation as a restaurant within a 12,100 square-foot commercial center.
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Details of Application Request

Site Area

Gross Acres	1.66
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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
South	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)
East	Single-Family Residences	ML (Medium Low Residential)	R-CL (Single Family Compact-Lot)
West	Shopping Center	SC (Service Commercial)	C-1 (Limited 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		X	N/A
A-O (Airport Overlay) District (140-foot)	X		Y*
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

*The subject property is located within the North Las Vegas Airport Overlay Map within the 140-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required</i>			<i>Provided</i>		<i>Compliance</i>
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurant, with Service Bar	1,485 SF	1:50 SF Public Area	30				
	1,515 SF	1:200 SF Non-Public	8				
Financial Institution, Specified	3,060 SF	1:250 SF	13				

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Dry Cleaners	1,000 SF	1:250 SF	4				
Nail Salon	8 stations	2 per station	16				
Liquor Establishment (Tavern)	2,330 SF	1:50 SF Public Area	47				
	1,700 SF	1:200 SF Non-Public	9				
SubTotal			121	5	114	5	
TOTAL	12,100 sq. ft		126		119		N
Percent Deviation					6 %		N

ANALYSIS

The applicant is requesting a Variance to allow 119 parking spaces where 126 spaces are required on a parking impaired site. This constitutes a 6% deviation from the standard. Per Title 19.10.010, five handicapped parking spaces are to be provided for uses requiring between 101 and 150 spaces. The provided site plans indicates five handicapped spaces will be provided, including one van accessible space. A previously approved parking Variance (V-0111-91) allowed 110 parking spaces where 121 were required. The applicant proposes to expand the existing Restaurant with Service Bar into an adjacent retail storefront. The existing restaurant is comprised of 940 square feet of public seating and waiting area and 1,020 square feet of remaining area. The proposed expansion will add 544 square feet of public seating and 456 square feet of remaining area. There are seven separate commercial suites on the site, five are occupied, one is presently vacant and the applicant proposes to expand the subject Restaurant with Service Bar into an adjacent retail storefront.

Title 19.10.010 (C) defines parking-impaired development as follows:

A land use or building which is existing on the effective date of this Title and which complied with the applicable parking standards at the time the use or building was established, but which does not comply with the requirements of this Section, shall not be considered a nonconforming use or nonconforming building; but rather, it shall be considered a parking-impaired development. The following rules shall apply to the remodeling, alteration, expansion or reuse of parking-impaired developments:

1. Building permits and certificates of occupancy may be issued for remodeling or structural alterations of parking-impaired developments without requiring compliance with this Chapter, provided that such work does not increase the building area or result in a change of use that requires an increase in the number of required parking spaces.

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2. For any remodeling, alteration, or expansion of a parking-impaired development that requires an increase in the number of parking spaces, including the expansion of existing buildings or the construction of new buildings, only the increased number of parking spaces shall be required.
3. For any change of use that requires an increase in the number of required parking spaces, only the increased number of parking spaces shall be required.

The on-site parking requirement for a Restaurant with Service Bar, per Title 19.04.010, is one space for each 50 square feet of public seating and waiting area (including outdoor areas for seating and waiting), plus one space for each 200 square feet of the total remaining gross floor area, with a minimum of ten spaces required. This Variance request applies to the net increase of seven additional parking spaces due to the expansion of the Restaurant with Service Bar use into an area previously used for general retail.

As noted in this report, there is a previously approved Variance (V-0111-91) for reduced parking on the subject site. In addition, the subject site is considered to be a parking impaired site which does not meet the current Title 19.04 parking requirements. The proposed expansion of the restaurant use is deemed to be self-imposed hardship that could be alleviated by proposing other compatible uses that will not exacerbate the existing parking impairment; therefore, staff is recommending 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 to expand a use that will result in a greater parking requirement on an existing parking impaired site. Alternative use of the site 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 8

ASSEMBLY DISTRICT 37

SENATE DISTRICT 3

NOTICES MAILED 702

APPROVALS 1

PROTESTS 0