



AGENDA MEMO

CITY COUNCIL MEETING DATE: APRIL 15, 2009
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-33018 - APPLICANT/OWNER: 11TH STREET HOLDINGS, INC.

THIS ITEM WAS HELD IN ABEYANCE FROM THE APRIL 1, 2009 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0-1/mb vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-33016), Special Use Permit (SUP-33014) and Site Development Plan Review (SDR-33013) 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a lot coverage of 78% where 50% is the maximum allowed; to allow no stepback where a 1:1 stepback to height ratio is required along a street classified as collector or larger; to allow a seven-foot front yard setback where 20 feet is required; to allow a six-foot side yard setback where 10 feet is required; to allow a zero-foot rear yard setback where 20 feet is required; and to allow a zero-foot corner side yard setback where 15 feet is required on 0.48 acres at the southeast corner of Stewart Avenue and 11th Street. In addition to this application, the applicant has submitted a request for a Variance (VAR-33016) to allow 38 parking spaces and no loading zone where 96 parking spaces and one loading zone is required, a Special Use Permit (SUP-33014) for a proposed Mixed-Use development and a Site Development Plan Review (SDR-33013) for a proposed four-story 48.5-foot tall Mixed-Use development consisting of 60 residential units and 1,924 square feet of commercial space with Waivers to allow a zero-foot landscape buffer along the north and west perimeters where 15 feet is required and to allow a zero-foot buffer along the south perimeter where eight feet is required. The proposed Variance represents substantial deviations from Title 19.08 requirements, which have been established to create orderly, aesthetically pleasing developments within the City of Las Vegas. The proposed Mixed-Use development can be redesigned to include stepbacks, provide greater setbacks and rearranged to allow for less intense lot coverage thus meeting the requirements of Title 19.08; therefore, staff recommends denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
06/09/04	A Code Enforcement complaint (#16346) was processed for general code violations. The case was resolved 01/02/07.
09/20/05	A Code Enforcement complaint (#34717) was processed for an evaporative cooler not working within a rental unit. The case was resolved 09/23/05.
09/29/05	A Code Enforcement complaint (#35020) was processed for electrical and plumbing not working within rental units. The case was resolved 09/30/05.
01/09/06	A Code Enforcement complaint (#37444) was processed for raw sewage leaks. The case was resolved 02/06/06.
11/05/07	A Code Enforcement complaint (#59514) was processed for a loose stairway, plumbing and gas leaks. The case was resolved 11/08/07.
11/14/07	A Code Enforcement complaint (#59835) was processed for outdoor auto parts storage and operating an auto repair business without a license. The case was resolved 11/16/07.
02/26/09	The Planning Commission recommended approval of companion items VAR-33016, SUP-33014 and SDR-33013 concurrently with this application.

	The Planning Commission voted 6-0-1/mb to recommend APPROVAL (PC Agenda Item #30/dc).
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<i>Related Building Permits/Business Licenses</i>	
03/22/00	A demolition permit (#00005169) was issued at 231 North 11 th Street. The permit received final approval on 04/13/00.
12/23/05	A business license (#T04-00024) was issued for a seven-unit trailer park at 231 North 11th Street.
03/09/06	A business license (#A07-00262) was issued for apartments at 231 North 11th Street. The license expired 01/15/09.
<i>Pre-Application Meeting</i>	
12/31/08	A pre-application meeting was held with the applicant where the submittal requirements for a Site Development Plan Review, setback and lot coverage Variance, parking Variance and a Special Use Permit for a Mixed-Use development were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held, nor was one required.	

<i>Field Check</i>	
01/21/08	A field check was conducted by staff at the subject site. The site is currently unpaved without a sidewalk, occupied by several mobile homes and a small apartment building.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.48

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Multi-Family Residential	MXU (Mixed Use)	C-2 (General Commercial)
North	Multi-Family Residential, Retail	MXU (Mixed Use)	C-2 (General Commercial)
South	Undeveloped	MXU (Mixed Use)	C-2 (General Commercial)
East	Multi-Family Residential	MXU (Mixed Use)	C-2 (General Commercial)
West	Multi-Family Residential	MXU (Mixed Use)	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	X		Y
Live/Work Overlay District	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

Live/Work Overlay District The subject site is located within the boundaries of the Live/Work Overlay District. The proposed Mixed-Use development does not contain any associated Live/Work units as a part of the proposed project.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	21,049 SF	N/A
Min. Lot Width	100 Feet	140 Feet	Y
Min. Setbacks			
• Front	20 Feet	7 Feet	N*
• Side	10 Feet	6.25 Feet	N*
• Corner	15 Feet	Zero Feet	N*
• Rear	20 Feet	Zero Feet	N*
Max. Lot Coverage	50 %	77.5 %	N*
Max. Building Height	N/A	48.5 Feet	N/A
Trash Enclosure	Screened, Enclosed	Screened, Enclosed	Y
Mech. Equipment	Screened	Screened	Y

* The applicant has submitted this Variance to allow a lot coverage of 78% where 50% is the maximum allowed; to allow no stepback where a 1:1 stepback to height ratio is required along a street classified as collector or larger; to allow a seven-foot front yard setback where 20 feet is required; to allow a six-foot side yard setback where 10 feet is required; to allow a zero-foot rear yard setback where 20 feet is required; and to allow a zero-foot corner side yard setback where 15 feet is required as a companion item to this application.

ANALYSIS

This application is a request for a Variance to allow a lot coverage of 78% where 50% is the maximum allowed; to allow no setback where a 1:1 setback to height ratio is required along a street classified as collector or larger; to allow a seven-foot front yard setback where 20 feet is required; to allow a six-foot side yard setback where 10 feet is required; to allow a zero-foot rear yard setback where 20 feet is required; and to allow a zero-foot corner side yard setback where 15 feet is required. The proposed Mixed-Use development can be redesigned to include setbacks, provide greater setbacks and rearranged to allow for less intense lot coverage thus meeting the requirements of Title 19.08; therefore, staff recommends denial of this request.

The applicant is proposing a four-story 48.5-foot tall Mixed-Use development consisting of 60 residential units and 1,924 square feet of commercial space which will occupy approximately 78% of the subject site. The maximum lot coverage permitted by Title 19.08 in a C-2 (General Commercial) zone is 50%. The ground level of this development will be occupied by a single-level parking garage and 1,924 square feet of commercial space. The remainder of the site will be occupied by sidewalks, a plaza area and street tree planters.

The Master Plan of Streets and Highways identifies Stewart Avenue as an 80-foot Secondary Collector. Title 19.08.030 requires building heights in excess of 35 feet which are located on a street classified by the Master Plan of Streets and Highways as a Collector or larger to be set back an additional one-foot for each foot of height in excess of 35 feet. The applicant is proposing to place a 48.5-foot tall building fronting Stewart Avenue, with no provision to allow for a 1:1 setback for the 13.5 feet of proposed building height that is in excess of 35 feet.

In order to accommodate the building as designed, the applicant has requested a seven-foot front yard setback where 20 feet is required, a six-foot side yard setback where 10 feet is required, a zero-foot corner side yard setback where 15 feet is required and a zero-foot rear yard setback where 20 feet is required. While staff supports the development of infill parcels, the reduction in building setbacks will negatively impact future development of the vacant parcel to the south while reductions in the building setbacks along the north, east and west perimeters will eliminate any opportunity for green space and landscape buffers. The number of items requested in this Variance application indicates that the subject site will be overbuilt; therefore, staff recommends denial of this request as the applicant has created a self-imposed hardship that could be alleviated through alternative design or a reduction in project scale.

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 not following the development standards listed in Title 19.08. The applicant has created a self-imposed hardship that could be alleviated through an alternative design or a reduction in project scale which 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 13

ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 130 by City Clerk

APPROVALS 0

PROTESTS 0