



AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 2, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: CHABAD SOUTHERN NEVADA, INC.

** STAFF RECOMMENDATION(S) **

Staff recommends DENIAL. The Planning Commission (5-0 vote) recommends APPROVAL, subject to conditions:

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-37276	Staff recommends DENIAL, if approved subject to conditions:	VAR-37277 SDR-36050
VAR-37277	Staff recommends DENIAL, if approved subject to conditions:	VAR-37276 SDR-36050
SDR-36050	Staff recommends DENIAL, if approved subject to conditions:	VAR-37276 VAR-37277



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**** CONDITIONS ****

VAR-37276 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-37277) and Site Development Plan Review (SDR-36050) shall be required.
2. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

VAR-37277 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-37276) and Site Development Plan Review (SDR-36050) shall be required.
2. This approval shall be void one year from the date of final approval, unless a building permit has been issued for the temporary classroom. 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.

SDR-36050 CONDITIONS

Planning and Development

1. The structure shall be removed within 30 days of issuance of a certificate of occupancy for the permanent school facility.
2. Approval of and conformance to the Conditions of Approval for Variances (VAR-37276 and VAR-37277) shall be required.
3. All development shall be in conformance with the partial site plan, date stamped 03/18/10, overall site plan date stamped 01/26/10 and building elevations, date stamped 09/16/09, except as amended by conditions herein.
4. This approval shall be reviewed administratively in six months, if the structure is still present, at which time the City Council may require the classroom facility to be removed. The applicant shall be responsible for notification costs for the review. Failure to pay the City for these costs may result in a requirement that the structure be removed.
5. A Waiver from Title 19.12.050 is hereby approved, to allow a zero-foot landscape buffer along a portion of the west perimeter where eight feet is required.
6. Prior to occupancy, all necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Department.
7. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
8. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
9. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

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Public Works

10. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed use of this facility. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services.
11. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
12. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing final grade elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.
13. Site development to comply with all applicable conditions of approval for Site Development Plan Review SDR-18342 and all other applicable, subsequent site-related actions.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request to convert a temporary construction trailer into classroom space at a primary school located at 1312 Vista Drive and 1261 Arville Street. The existing modular building was permitted and installed for use as a construction trailer, but has since been used to provide three classrooms for the existing school on Arville Street until the new school on Vista Drive opens. The new school is projected to open in August of 2010. Staff cannot support the requests as the structure does not meet the minimum rear yard setback requirement, and adequate parking has not been provided for the proposed use. No evidence of unique or extraordinary circumstances has been presented pursuant to Title 19.18.070 that would substantiate the requested variances. If denied, the structure may only be used as a temporary construction trailer.

ISSUES

- A temporary construction trailer may be permitted in conjunction with an approved development. As a temporary construction trailer, there is no additional parking requirement, nor is it subject to the setback requirements that other uses are.
- The structure is located 10 feet from the rear property line. A Variance (VAR-37276) is required as the required rear yard setback is 35 feet.
- There is not adequate parking provided at the site for the structure. A Variance (VAR-37277) is required to allow 21 spaces where 25 spaces are required.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
06/22/78	The Board of Zoning Adjustment approved a request for a Variance (V-0049-78) to allow a 5-foot high wrought iron fence in the front yard setback area at 1254 Vista Drive.
10/24/85	The Board of Zoning Adjustment denied a request for a Variance (V-0100-85) to allow a proposed Commercial Child Care facility at 1254 Vista Drive.
10/24/91	The Board of Zoning Adjustment approved a request for a Special Use Permit (U-0256-91) to allow a proposed Synagogue with a Child Care use at 1254 Vista Drive.
08/17/94	The City Council approved a Rezoning (Z-0057-94) from R-E (Residence Estates) to P-R (Professional Office and Parking) at 1253 Arville Street. The Planning Commission recommended approved the request.
07/25/95	The Board of Zoning Adjustment approved a request for a Plot Plan and Elevation Review [U-0085-95(1)] for a proposed 7,700 square-foot two story off-site church related school at 1253 Arville Street.

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03/26/98	The Planning Commission struck a request from the agenda for a Site Development Plan Review [Z-57-94(1)] for a proposed 11,959 square foot synagogue at 1261 Arville Street. This item was replaced with a Variance (V-0013-98) at the Planning Commission's discretion.
04/14/98	The Board of Zoning Adjustment approved a request for a Variance (V-0013-98) to allow a 10-foot rear yard setback where 15 feet is required; and an 11,959 square-foot building where 10,000 square feet is the maximum allowed on property located at 1261 Arville Street. NOTE: This application replaced Z-57-94(1).
08/15/01	The City Council denied a request for a Special Use Permit and a Site Development Plan Review (U-0065-01) which includes a reduction in the amount of required perimeter and parking lot landscaping for a proposed 4,893 square-foot church complex located at 1214 Vista Drive. The Planning Commission also recommended denial of the request.
08/09/07	The Planning Commission tabled a request for a Variance (VAR-22086) to allow a 23-foot setback where residential adjacency standards require an 87-foot setback and to allow a 44-foot building height where a 35-foot building height is the maximum allowed for a proposed 84,276 square-foot private school adjacent to the west side of Vista Drive, approximately 530 feet south of Charleston Boulevard.
01/09/08	The City Council approved a request for a Site Development Plan Review (SDR-18342) for a proposed 77,881 square-foot, 35-foot high Private School adjacent to the west side of Vista Drive, approximately 530 feet south of Charleston Boulevard. The Planning Commission and Staff recommended approval of the request.
04/22/10	The Planning Commission (5-0 vote) recommended APPROVAL of companion items VAR-37276, VAR-37277, SDR-36050, VAR-37627 and SDR-37569 concurrently (PC Agenda Item 33-37/sg).
<i>Related Building Permits/Business Licenses</i>	
06/30/09	A Building Demolition Dust Control permit (#142464) was issued for three detached structures at 1312 Vista Drive. The building permit was finalized on 07/31/09
07/15/09	A Building Permit (#143557) was issued for a Construction Trailer at 1312 Vista Drive. The building permit was finalized on 08/28/09
07/24/09	A Building Permit (#143882) was issued for Sprinklers for a Temporary Construction Trailer at 1312 Vista Drive. The building permit was finalized on 08/28/09
08/21/09	A Building Permit (#146017) was issued for early grading at 1312 Vista Drive. The building permit has not received a final inspection.

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09/18/09	A Building Permit (#128454) was issued for a Private School at 1312 Vista Drive. The building permit has not received a final inspection.
	A Building Permit (#128456) was issued for On-Site Improvements and Hardscapes at 1312 Vista Drive. The building permit has not received a final inspection.
	A Building Permit (#128457) was issued for a Trash Enclosure at 1312 Vista Drive. The building permit has not received a final inspection.

<i>Pre-Application Meeting</i>	
09/04/09	A pre-application meeting was held to review submittal requirements for a Site Development Plan Review to add a temporary classroom building to the subject site. • A Variance is required for rear yard setback to allow 10 feet where 35 feet is required. • A Variance is required for parking to allow 21 spaces where 25 are required.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was neither required nor held for this request.	
<i>Field Check</i>	
03/24/10	A field check was conducted by staff. The site is under construction for a private school previously approved via SDR-18342.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	4.04

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Private School (per SDR-18342) – Under Construction	R (Rural Density Residential)	R-E (Residence Estates)
North	Church	R (Rural Density Residential)	R-E (Residence Estates)
South	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
East	Undeveloped	R (Rural Density Residential)	R-E (Residence Estates)
	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)

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West	Synagogue	SC (Service Commercial)	P-R (Professional Office and Parking)
	Office	SC (Service Commercial)	P-R (Professional Office and Parking)
	Office	SC (Service Commercial)	P-R (Professional Office and Parking)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (175 & 200 Feet)	X		Y
Trails		X	NA
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Per Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF		Y
Min. Lot Width	100 Feet		Y
Min. Setbacks			
• Side	10 Feet	160 Feet	Y
• Rear	35 Feet	10 Feet	N
Max. Building Height	Lesser of 2 Stories or 35 Feet	1 Story	Y or N

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	
Church / House of Worship (Existing)	As approved by Special Use Permit (U-0256-91)	16		21		Y	

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School, Primary	3 Classrooms	3 Spaces per classroom	9		Zero		N
TOTAL SPACES REQUIRED			25		21		N
TOTAL (With Handicapped)			24	1	20	1	N
Percent Deviation			4%				

Waivers		
Requirement	Request	Staff Recommendation
Eight-foot landscape buffer along interior perimeters	A zero-foot buffer along a portion of the west perimeter	Denial

ANALYSIS

This is a request to convert a temporary construction trailer into classroom space at a primary school located at 1312 Vista Drive and 1261 Arville Street. The existing modular building was permitted and installed for use as a construction trailer, but has since been used to provide three classrooms for the existing school on Arville Street until the new school on Vista Drive opens. The new school is projected to open in August of 2010.

The structure was permitted as a temporary construction trailer in conjunction with the approved development of the new school. As a temporary construction trailer, there is no additional parking requirement, nor is it subject to the setback requirements that other uses are. The use of the structure as a classroom facility does have an additional parking requirement of three spaces per classroom, and is required to meet all setback requirements of Title 19.08. Parking for the classrooms is to be provided on the existing school site on Arville Street, but is not adequate to meet Title 19 requirements. In addition, the structure was located 10 feet from the rear yard of the property. In the R-E (Residence Estates) zoning district, a rear yard setback of 35 feet is required. Therefore, approval of two variances is required to approve the requested Site Development Plan Review. Staff cannot support the requests as the structure does not meet minimum Title 19 requirements, and no evidence of unique or extraordinary circumstances has been presented pursuant to Title 19.18.070 that would substantiate the requested variances. If denied, the structure may only be used as a temporary construction trailer.

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FINDINGS (VAR-37276)

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 19.18.070(L) 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 locating a structure within a required setback area.

Alternative site design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (VAR-37277)

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.”

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Additionally, Title 19.18.070(L) 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 adding classroom space to a site without providing adequate parking. Alternative site design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (SDR-36050)

In order to approve a Site Development Plan application, per Title 19.18.050 the Planning Commission and/or City Council must affirm the following:

1.The proposed development is compatible with adjacent development and development in the area;

The proposed development is not compatible with adjacent development in the area as it fails to meet minimum setbacks and parking requirements.

2.The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;

The proposed development is not consistent with Title 19, as is evidenced by the need for variances for rear yard setback and parking.

3.Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;

The classroom facility is accessed via the existing school site on Arville Street, a 60-foot right-of-way. Site access and circulation do not negatively impact the adjacent roadways or neighborhood traffic.

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4. Building and landscape materials are appropriate for the area and for the City;

Building materials are not appropriate as the structure is a modular building with painted wooden siding. The materials and color of the structure do not match the existing adjacent structures. The applicant is requesting a Waiver to allow no landscape buffer along the portion of the west perimeter where the structure is located; the lack of the required landscape buffer is not appropriate for the area or the City.

5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

The building elevations are neither desirable nor compatible with development in the area as they do not match the adjacent structures in either color or materials.

6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.

The proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety and general welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

21

NOTICES MAILED

234 (By City Clerk)

APPROVALS

11

PROTESTS

4