



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MAY 28, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-33759 - APPLICANT/OWNER: CASA SUITES, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-33760) and Site Development Plan Review (SDR-33761) 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.

VAR-33759 - Staff Report Page One
May 28, 2009 - Planning Commission Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a zero-foot corner side yard setback where five feet is required on 1.95 acres at the northeast corner of Wilson Avenue and Las Vegas Boulevard. Associated requests have also been submitted for Rezoning (ZON-33757) from C-2 (General Commercial) to R-5 (Apartment), a Variance (VAR-33760) to allow 61 parking spaces where 110 are required, and a Site Development Plan Review (SDR-33761) for a proposed 50-foot, four-story, 34-unit multi-family residential building (apartments) within an existing 136-unit multi-family development (apartments) with Waivers of the perimeter landscape buffer standards to allow buffers of zero feet along the west perimeter where 10 feet is required, and zero feet along the north and a portion of the east perimeters where six feet is required. An Exception is also required as part of the request to allow no parking lot trees and eight landscape islands where 14 of each are required. Staff is recommending denial of this request as the applicant has created a self-imposed hardship by proposing to build a structure within a required corner side yard setback area, which could be alleviated through alternative site design.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc., and Property Sales</i>	
03/05/04	A Code Enforcement complaint (#10773) was processed for various building code issues at 700 N. Las Vegas Blvd. The complaint was resolved on 07/02/04.
08/16/04	A Code Enforcement complaint (#20204) was processed for a fire at an apartment, with no repairs being made at 700 N. Las Vegas Blvd. The complaint was resolved on 01/03/07.
01/19/05	A Code Enforcement complaint (#25229) was processed for leaking plumbing fixtures causing mold and fire damage with no repairs being done at 700 N. Las Vegas Blvd. The complaint was resolved on 01/24/05.
07/27/05	A Code Enforcement complaint (#32967) was processed on a Clark County Health District call for an insect infestation at 700 N. Las Vegas Blvd. The complaint was resolved on 01/19/06.
03/13/06	A Code Enforcement complaint (#39159) was processed for an unstable stairwell at 700 N. Las Vegas Blvd. The complaint was resolved on 03/15/06.
04/11/06	A Code Enforcement complaint (#40073) was processed for no fire extinguishers in the cabinets for Building 4 at 700 N. Las Vegas Blvd. The complaint was resolved on 05/04/06.
07/26/06	A Code Enforcement complaint (#44841) was processed for insects and various building and fire issues at 700 N. Las Vegas Blvd. The complaint was resolved on 08/08/06.

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VAR-33759 - Staff Report Page Two
May 28, 2009 - Planning Commission Meeting

10/09/06	A Code Enforcement complaint (#46959) was processed for rebar sticking out of a concrete slab at 700 N. Las Vegas Blvd. The complaint was resolved on 10/17/06.
03/01/07	A Code Enforcement complaint (#50914) was processed for mold, insects and no furnishings in a furnished apartment at 700 N. Las Vegas Blvd. The complaint was resolved on 04/09/07.
03/01/07	A Code Enforcement complaint (#50916) was processed for mold at 700 N. Las Vegas Blvd. The complaint was resolved on 04/09/07.
03/06/07	A Code Enforcement complaint (#51029) was processed for non-working elevators at 700 N. Las Vegas Blvd. The complaint was resolved on 01/22/08.
03/14/07	A Code Enforcement complaint (#51274) was processed for mold, broken hand rails, and no air conditioning or heat at 700 N. Las Vegas Blvd. The complaint was resolved on 03/20/07.
04/04/07	A Code Enforcement complaint (#51929) was processed for missing appliances, broken plumbing fixtures, insects and no air conditioning or heat at 700 N. Las Vegas Blvd. The complaint was resolved on 04/09/07.
02/08/08	A Code Enforcement complaint (#62177) was processed for an unhealthy living environment (insects) at 700 N. Las Vegas Blvd. The complaint was resolved on 02/12/08.
03/14/08	A Code Enforcement complaint (#63421) was processed for missing appliances, broken plumbing fixtures, insects and no air conditioning or heat at 700 N. Las Vegas Blvd. The complaint was resolved on 03/21/08.
06/10/08	A deed was recorded for a change in ownership.
06/25/08	A Code Enforcement complaint (#67073) was processed for damaged carpet, insects and a broken restroom fan at 700 N. Las Vegas Blvd. The complaint was resolved on 07/09/08.
11/19/08	A Code Enforcement complaint (#72109) was processed for illegal signage and work without permits at 700 N. Las Vegas Blvd. The complaint was resolved on 01/22/09.
12/18/08	The Planning Commission denied requests for a Variance (VAR-29664) to allow a proposed 60-foot tall freestanding sign where 40 feet is the maximum height allowed; to allow six proposed freestanding signs where three is the maximum allowed; to allow a distance separation of less than 100 feet between freestanding sign to freestanding sign and freestanding sign to monument sign where 100 feet is the minimum required and to allow a zero-foot setback where five feet is required for a proposed monument sign; and a Variance (VAR-32024) to allow zero percent exposed neon and or animation where seventy-five percent is required for a proposed monument sign and five proposed freestanding signs on 1.33 acres at the northeast corner of Las Vegas Boulevard and Wilson Avenue. The denial was appealed to the City Council on 01/29/09, but was withdrawn without prejudice at the applicant's request. Staff recommended denial on both requests.

VAR-33759 - Staff Report Page Three
May 28, 2009 - Planning Commission Meeting

03/12/09	A Code Enforcement complaint (#72109) was processed for illegal signage at 700 N. Las Vegas Blvd. The complaint is still open.
04/23/09	The Planning Commission, at the request of the applicant, held in abeyance requests for Rezoning (ZON-33757) from C-2 (General Commercial) to R-5 (Apartment); a Variance (VAR-33759) to allow a zero-foot corner side yard setback where five feet is required; a Variance (VAR-33760) to allow 61 parking spaces where 110 are required; and a Site Development Plan Review (SDR-33761) for a proposed 50-foot, four-story, 34-unit multi-family residential building (apartments) within an existing 136-unit multi-family development (apartments) with Waivers of the perimeter landscape buffer standards to allow buffers of zero feet along the west perimeter where 10 feet is required, and zero feet along the north and a portion of the east perimeters where six feet is required on 1.95 acres at the northeast corner of Wilson Avenue and Las Vegas Boulevard.

<i>Related Building Permits/Business Licenses</i>	
c. 1977-1978*	Apartments constructed.
11/28/78	A business license (A07-00733) was issued for apartment rentals at 700 N. Las Vegas Blvd. The license is still active.
02/08/94	A building permit (#94318541) was issued for an illuminated pole sign at 700 N. Las Vegas Blvd. The permit expired on 09/03/94.
12/22/94	A building permit (#94361291) was issued to install conduit for fire alarms at 700 N. Las Vegas Blvd. The permit was finalized on 01/11/95.
03/25/96	A building permit (#96392838) was issued for fire alarms at 700 N. Las Vegas Blvd. The permit expired on 11/23/96.
10/17/97	A building permit (#97021168) was issued for 175 feet of chain link fencing at 700 N. Las Vegas Blvd. The permit expired on 08/01/98.
01/28/98	A building permit (#98001809) was issued for the change out of two water heaters at 700 N. Las Vegas Blvd. The permit expired on 08/01/98.
04/01/99	A building permit (#99006230) was issued for 250 feet of decorative wall at 700 N. Las Vegas Blvd. The permit was finalized on 12/28/99.
08/30/99	A building permit (#99017124) was issued for a service change at 700 N. Las Vegas Blvd. The permit expired on 02/26/00.
09/30/04	A building permit (#28010) was issued for disaster repair of Building A at 700 N. Las Vegas Blvd. The permit was completed on 10/08/04.
05/25/06	A building permit (#6003668) was issued for the installation of external stairs at 700 N. Las Vegas Blvd. The permit expired on 06/16/07.
08/09/06	A building permit (#70557) was issued for the relocation of a water line and installation of a water heater at 700 N. Las Vegas Blvd. The permit was completed on 02/11/07.
08/23/06	A building permit (#71380) was issued for disaster repair of Building B, with Building A to be demolished, at 700 N. Las Vegas Blvd. The permit has never been completed.

VAR-33759 - Staff Report Page Four
May 28, 2009 - Planning Commission Meeting

12/18/06	A building permit (#6007395) was issued for the demolition of apartments and a sewer fixture count at 700 N. Las Vegas Blvd. The permit expired on 06/16/07.
09/29/08	A building permit (#125128) was issued to replace shower valves at 700 N. Las Vegas Blvd. The permit is still active.
03/10/09	A permit application (#135184) was received for signage at 700 N. Las Vegas Blvd. A permit has not yet been issued.

**Building permits were issued in June, 1977 for 102 units with 16 parking spaces, and in February, 1978 for an additional 100 units with 45 parking spaces. A subsequent fire, circa 2004, destroyed one apartment building consisting of 68 units.*

Pre-Application Meeting	
02/23/09	A pre-application meeting was held to discuss the submittal requirements for a Rezoning, Site Development Plan Review and Variances for parking and building setbacks.

Neighborhood Meeting	
A neighborhood meeting was neither required nor held for this request.	

Field Check	
03/19/09	A field check was conducted by staff. The subject site was clean and well maintained. There was non-permitted banner signage and streamers at the site, and a perimeter wall that has not been permitted for the entire length of the wall.

Details of Application Request	
Site Area	
Gross Acres	1.95 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Apartments	MXU (Mixed Use)	C-2 (General Commercial)
North	Commercial Shops	MXU (Mixed Use)	C-2 (General Commercial)
	Neon Museum	PF (Public Facilities)	C-V (Civic)
South	Tavern, Shops	MXU (Mixed Use)	C-2 (General Commercial)
East	Single-Family Residences	MXU (Mixed Use)	R-1 (Single Family Residential)
	Neon Museum	PF (Public Facilities)	C-V (Civic)
West	Commercial Shops, Undeveloped	MXU (Mixed Use)	C-2 (General Commercial)

May 28, 2009 - Planning Commission Meeting

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
Downtown North Land Use Plan			*

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (200 Feet)			
Las Vegas Boulevard Scenic Byway Overlay District			**
Trails			*
Rural Preservation Overlay District			
Development Impact Notification Assessment			
Project of Regional Significance			

**Pursuant to the Downtown North Land Use Plan, the Las Vegas Boulevard Scenic Byway, located along both sides of Las Vegas Boulevard, shall be developed as an Urban Trail, which is defined as a designated pedestrian route located in an urban area, consisting of widened sidewalks in existing right-of-way corridors. In addition to the 100-foot right-of-way requirement, the plan also requires that an additional 10-foot pedestrian easement be sought from new projects. As the proposed project is to add an apartment building to an existing apartment complex, the additional easement will not be required at this time.*

***All signage is to be permitted separately; proposed signage will be evaluated for conformance to the Las Vegas Boulevard Scenic Byway Overlay District at the time of building permit review.*

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	7,000 SF	59,193 SF	
Min. Lot Width	N/A	220 Feet	
Min. Setbacks • Front • Side • Corner • Rear	10 Feet 5 Feet 5 Feet 20 Feet	129 Feet 41 Feet Zero Feet 60 Feet	*
Min. Distance Between Buildings	Unlimited	80 Feet	
Max. Lot Coverage	N/A	30%	
Max. Building Height	5 Stories or 55 feet, whichever is less	4 Stories (50 Feet)	

**This Variance has been submitted to allow a zero-foot corner side yard setback where five feet is required.*

VAR-33759 - Staff Report Page Six
May 28, 2009 - Planning Commission Meeting

ANALYSIS

This is a request for a Variance to allow a zero-foot corner side yard setback where five feet is required on 1.95 acres at the northeast corner of Wilson Avenue and Las Vegas Boulevard. The site is an existing apartment complex consisting of three buildings; the applicant is proposing to construct a fourth building to the northwest of the existing structures, adjacent to Las Vegas Boulevard.

As a condition of approval of Site Development Plan Review (SDR-33761), the applicant is required to dedicate 10 feet of property along Las Vegas Boulevard for use as right-of-way. Pursuant to Title 19.08.030(D), the uses of land in each zoning district shall be allowed only when the permit for any proposed improvement on the land includes the provisions for the:

1. Dedication of all essential rights-of-way for major streets, minor streets, flood control, utilities and other public purposes; and
2. Provisions for the installation of essential off-site improvements as directed by the City. Essential rights-of way and off-site improvements are defined as those rights-of way and improvements required in connection with a proposed Rezoning, Special Use Permit, Variance, Site Development Plan, required by the subdivision regulations of the City, or required by the Director of Public Works as appropriate and necessary to mitigate the impact of the development of property in the area. All improvements shall be constructed in accordance with the City standards and specifications.

As the development of a site is contingent upon the requirement for dedication of right-of-way, the required setback distance for the proposed structure is measured from the property line established after the dedication, resulting in this request for a Variance to allow a zero-foot corner side yard setback where five feet is required. Title 19.08.030(G), which addresses the effect of a dedication upon an existing development, does not apply in this case, as this Variance is required as a result of the proposed development of the site. Staff is recommending denial of this request as the applicant has created a self-imposed hardship by proposing to build a structure within a required corner side yard setback area, which could be alleviated through alternative site design.

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.

VAR-33759 - Staff Report Page Seven
May 28, 2009 - Planning Commission Meeting

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 build a structure within a required corner side yard setback area. 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.

ASSEMBLY DISTRICT 6

SENATE DISTRICT 10

NOTICES MAILED 185

APPROVALS 2

PROTESTS 7