

*City of Las Vegas***AGENDA MEMO****PLANNING COMMISSION MEETING DATE: JUNE 11, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - VAR-34538 - APPLICANT/OWNER: BASHIR AFZALI**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-34539) and Site Development Plan Review (SDR-34540) 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.

Submitted after final agenda

Date 6/11/09 Item 11

SG

**** STAFF REPORT ****

PROJECT DESCRIPTION

Note: This request was originally noticed as Variance (VAR-33768), but, due to material changes in the project, was renoticed for the 06/11/09 Planning Commission meeting as Variance (VAR-34538).

A two-story, 7,180 square-foot commercial development is proposed on an undeveloped parcel located approximately 500 feet north of Washington Avenue. Due to the scope of the project, it is unable to meet the minimum development standards of Title 19, resulting in this request for a Variance to allow a 15-foot front yard setback where 20 feet is required, a 73-foot setback where Residential Adjacency standards require 84 feet, and to allow a trash enclosure to be located 10 feet from a residentially zoned property where residential adjacency requires 50 feet. Staff is recommending denial of this request as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site. Alternative design or a reduction in the scope of the project would bring the development into compliance with Title 19 standards.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/01/04	The City Council approved a request for Rezoning (ZON-5222) from R-E (Residence Estates) to C-1 (Limited Commercial) on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval. The Resolution of Intent expired on 12/01/06.
12/01/04	The City Council denied requests for a Site Development Plan Review (SDR-5223) with a Waiver of perimeter buffering and landscaping standards and a Special Use Permit (SUP-5225) for a proposed Smog Check and Car Wash, Self Service on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval.

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04/23/09	The Planning Commission, at the request of the applicant, abeyed requests for a Rezoning (ZON-33765) from R-E (Residence Estates) to C-1 (Limited Commercial); a Variance (VAR-33768) to allow a 20-foot rear yard setback where Residential Adjacency standards require 35 feet; a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required; and a Site Development Plan Review (SDR-33767) for a proposed 6,232 square-foot commercial building with Waivers of the perimeter landscape buffer standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters and a Waiver of the building placement and orientation standards on 0.58 acres on the east side of Martin L. King Boulevard, approximately 500 feet north of Washington Avenue.
05/14/09	The Planning Commission, at the request of the applicant, abeyed requests for a Rezoning (ZON-33765) from R-E (Residence Estates) to C-1 (Limited Commercial); a Variance (VAR-33768) to allow a 20-foot rear yard setback where Residential Adjacency standards require 35 feet; a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required; and a Site Development Plan Review (SDR-33767) for a proposed 6,232 square-foot commercial building with Waivers of the perimeter landscape buffer standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters and a Waiver of the building placement and orientation standards on 0.58 acres on the east side of Martin L. King Boulevard, approximately 500 feet north of Washington Avenue.

Related Building Permits/Business Licenses

There are no related building permits or business licenses associated with the subject site.

Pre-Application Meeting

12/16/08	A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Site Development Plan Review and Variances: • Required setbacks, Residential Adjacency issues and parking requirements. • Perimeter landscape buffer Waivers required. • Parking lot landscaping Exceptions required. • Preference for a single driveway, with required throat depth.
12/16/08	A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Site Development Plan Review, as well as required Variances for setbacks and parking requirements.

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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 is an undeveloped parcel. There is an unpermitted chain link fence along the front of the lot, as well as some debris.

Details of Application Request

Site Area

Gross Acres 0.58 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	C (Commercial)	R-E (Residence Estates)
North	Shopping Center	C (Commercial)	C-1 (Limited Commercial)
South	Retail Shops	C (Commercial)	C-1 (Limited Commercial)
East	Single-Family Residence	C (Commercial)	R-E (Residence Estates)
West	Single-Family Residences	R (Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O Airport Overlay District (140 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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	N/A	25,164 SF	Y
Min. Lot Width	100 Feet	190 Feet	Y

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Min. Setbacks			
• Front	20 Feet	15 Feet	N
• Side	10 Feet	10 Feet	Y
• Rear	20 Feet	73 Feet	Y
Max. Lot Coverage	50%	29%	Y
Max. Building Height	N/A	28 Feet	Y

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	84 Feet	73 Feet	N
Adjacent development matching setback	35 Feet (Rear)	73 Feet	Y
Trash Enclosure	50 Feet	10 Feet	N

ANALYSIS

The proposed project is a two-story, 7,180 square-foot commercial building on a 0.58 acre parcel that does not conform to the minimum Title 19.08 Development Standards for front yard setback area and Residential Adjacency standards. The proposed structure would be setback only 15 feet from the front property line along Martin L. King Boulevard, where 20 feet is required. As the structure is proposed at two-stories and 28 feet in height, it would not meet the minimum 3:1 Proximity Slope from a protected residential property to the east as required by the Residential Adjacency standards. Finally, the trash enclosure has been located in the southeast corner of the site, approximately 10 feet from the protected residential property where Residential Adjacency standards require that such enclosure be located at least 50 feet away from the protected property. Residential Adjacency standards have been adopted to protect residentially zoned properties from the negative impacts that adjacent commercial development may have on them. The standards are intended to provide buffers in order to minimize these impacts so that commercial developments that occur in proximity to residential uses are compatible and can be operated in a harmonious manner with the residential uses. Staff is recommending denial of this request as it would effectively eliminate the additional buffering areas that Residential Adjacency standards are meant to provide, and the applicant has created a self-imposed hardship by proposing to overbuild the site.

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.”

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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 overbuild the site. Alternative site design, coupled with a reduction in the scope of the proposed development, 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

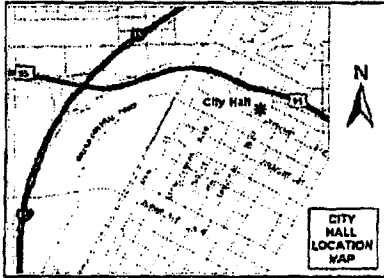
NOTICES MAILED 161

APPROVALS 2

PROTESTS 0

City of Las Vegas
Planning & Development Department
Development Services Center
731 S. Fourth Street
Las Vegas, Nevada 89101-2986

**Return Service Requested
Official Notice of Public Hearing**



If you wish to file your protest or support on this request, check the appropriate box below and return this card in an envelope with postage to the Planning & Development Department at the address listed above or fax this side of this card to (702) 385-7268. If you would like to contact your Council Representative, please call (702) 229-6405.



I SUPPORT
this Request



I OPPOSE
this Request

Please use available blank space on card for your comments.

ZON-33765 & VAR-34538

Planning Commission Meeting of 6/11/2009

RECEIVED
JUN 10 2009

13928604005 Case: ZON-33765
JACKSON FREDERICK
8954 UNION GAP RD
LAS VEGAS NV 89123-3019

CAVDS11 89123



Submitted after final agenda

Date 6/10/09 Item 11P