



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JUNE 11, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-34009 - APPLICANT/OWNER: W.I.T. BRO, INC.

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval and conformance to the conditions for Site Development Plan Review (SDR-34007) 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The requested Variance has been made as a direct result of past and current Code Enforcement cases, which state that there is commercial business activity occurring within a residential zoning district, operating out of single-family dwellings that have yet to be converted by means of permit. This proposal would combine two single-family residential parcels into a single office development, with the existing residences converted to offices, and the existing garage structures used for accessory storage. The easternmost residence and accessory structure, as well as two proposed carport structures at the northeast corner of the site, are the subjects of this request, as a result of more restrictive commercial design standards, including setbacks and residential adjacency standards, which are applied to the site for the conversion to an office development. The required building and Residential Adjacency setbacks, combined with landscape buffer areas, are intended to provide buffering between commercial properties and protected residential properties in order to mitigate the adverse impacts that are associated with commercial sites. Alternative site design would allow for a site that meets the minimum requirements of Title 19; therefore, staff has determined that this request is a self-imposed hardship and recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
09/03/08	The City Council approved a petition to Annex (ANX-28048) property at 6991 West Red Coach Avenue, containing approximately 0.99 acres, with an effective date of 09/12/08. The Planning Commission and staff recommended approval.
10/16/08	A Code Enforcement case (#70717) was processed for a business being conducted from a residence at 6991 W. Red Coach Avenue. Code Enforcement closed the case on 01/05/09.
12/03/08	The City Council approved a petition to Annex (ANX-28049) property at 6971 West Red Coach Avenue, containing approximately 0.50 acres, with an effective date of 09/12/08. The Planning Commission and staff recommended approval.
02/17/09	A Code Enforcement case (#74597) was processed for a business being conducted from a residence, parking vehicles on a dirt lot and outside storage of equipment at 6971 and 6991 W. Red Coach Avenue. The case is still active.

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05/14/09	The Planning Commission, at the applicants request, abeyed requests for a Rezoning (ZON-34005) from R-E (Residence Estates) to O (Office), a Variance (VAR-34009) to allow a 2.75-foot side yard setback where eight feet is required for an existing accessory structure, a 15-foot front yard setback and a five-foot side yard setback where 25 feet and eight feet are required, respectively, for a proposed accessory structure, to allow accessory structures to be located within a required perimeter landscape area where such is not permitted, and to allow a 10-foot building setback where Residential Adjacency standards require a matching setback of 30 feet for an existing building, and a Site Development Plan Review for the proposed conversion of two single-family dwellings to offices with a Waiver to allow a zero-foot landscape buffer along the east, west and south property lines where eight feet is required on 1.49 acres at 6971 and 6991 West Red Coach Avenue.
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Related Building Permits/Business Licenses

12/23/08	A residential building permit (08-26263 BU6) was issued by Clark County for the conversion of a garage to a storage room. This permit was issued after the effective date of Annexation, and did not receive a final inspection.
01/08/09	A residential electrical permit (08-26263 EL1) was issued by Clark County for the conversion of a garage to a storage room. This permit was issued after the effective date of Annexation, and did not receive a final inspection.

Pre-Application Meeting

03/17/09	A pre-application meeting was held to discuss the submittal requirements for a Rezoning, a Variance and a Site Development Plan Review, including: • Setback requirements. • Parking requirements. • Landscape buffer and planting requirements.
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Neighborhood Meeting

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

Field Check

04/09/09	A field check was conducted of the subject site, which consists of two residential properties to be converted to offices. There was a large amount of outside storage, including trucks and other vehicles, semi and utility trailers, equipment and cargo storage containers, located on the site. There is an active Code Enforcement case pending for the properties.
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Details of Application Request

Site Area

Gross Acres	1.66 Acres
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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residences	O (Office)	R-E (Residence Estates) [Proposed: O (Office)]
North	Undeveloped [Approved for Apartments (SDR-29442)]	M (Medium Density Residential)	R-3 (Medium Density Residential)
South	Single-Family Residences [Approved for a Warehouse and Office Development (SDR-28390)]	LI/R (Light Industrial / Research)	M (Industrial)
East	Single-Family Residences	O (Office) [Clark County]	R-E (Rural Estates, Residential District) [Clark County]
West	ROW (US 95)	ROW (US 95)	ROW (US 95)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
Trails			
Rural Preservation Overlay District			
Development Impact Notification Assessment			
Project of Regional Significance			

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	65,531 SF	
Min. Lot Width	100 Feet	163 Feet	
Min. Setbacks			
• Front	25 Feet	25 Feet	
• Side	10 Feet	10 Feet	
• Corner	15 Feet	N/A	
• Rear	15 Feet	280 Feet	

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Min. Setbacks Accessory Structures			
• Front	25 Feet	15 Feet	
• Side	8 Feet	2.75 Feet	
• Corner	15 Feet	N/A	
• Rear	8 Feet	212 Feet	
Max. Lot Coverage	30%	15%	
Max. Building Height	2 Stories or 35 Feet, Whichever is Less	1 Story	

Pursuant to Title 19.08.060, the following Residential Adjacency Standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	81 Feet	83 Feet	
Adjacent development matching setback	30 Feet	10 Feet	
Trash Enclosure	50 Feet	65 Feet	

ANALYSIS

The subject site is comprised of two single-family residential lots to be combined in to a single office development, with the existing residences converted to offices, and the existing garage structures used for accessory storage. The easternmost residence and accessory structure, as well as two proposed carport structures at the northeast corner of the site, are the subjects of this request. The existing residence meets the required side yard setback for both the existing R-E (Residence Estates) zoning district and the proposed O (Office) zoning district, but, if the site is converted for office use, Residential Adjacency standards will apply, and a matching setback equal to the adjacent residential property is required. In this case, the matching setback is 30 feet. The existing accessory structure, which is set back approximately 2.75 feet, does not meet the existing setback of three feet, and will not meet the proposed setback of eight feet for the O (Office) zoning district. The addition of the proposed metal carport structures at the front of the property, within the required front setback area and landscape buffer areas, adjacent to both the street and a residential property to the east, will have a negative visual impact on that residential property and the neighborhood in general. The required building and Residential Adjacency setbacks, combined with landscape buffer areas, are intended to provide buffering between commercial properties and protected residential properties in order to mitigate the adverse impacts that are associated with commercial sites. Alternative site design would allow for a site that meets the minimum requirements of Title 19; therefore, staff has determined that this request is a self-imposed hardship and recommends denial.

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:

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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 a development that does not conform to the minimum requirements of Title 19. 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 37

SENATE DISTRICT 4

NOTICES MAILED 131

APPROVALS 1

PROTESTS 4