



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JUNE 11, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: ABEYANCE - VAR-34008 - APPLICANT: AMERICAN WEST
PETROLEUM - OWNER: PHAM CAPITAL, LLC**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the conditions for Special Use Permit (SUP-34006) and Site Development Plan Review (SDR-34010), 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a zero-foot side yard setback where 10 feet is the minimum required and to allow a residential adjacency setback of 20 feet where 57 feet is required at the southwest corner of Sahara Avenue and Valley View Boulevard. The proposed uses cannot be conducted in a compatible and harmonious manner, as the applicant fails to meet both Title 19.08.050 Development Standards and Title 19.08.060 Residential Adjacency Standards; therefore staff is recommending denial of the subject application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
03/11/65	The Planning Commission approved a Rezoning (Z-0018-65) from R-3 (Medium Density Residential) to C-1 (Limited Commercial) and a Plot Plan Review [Z-0018-65(1) for a proposed Convenience Store with fuel pumps on 0.58 acres at the southwest corner of Sahara Avenue and Valley View Boulevard.
06/03/97	The Board of Zoning Adjustment approved a Variance (V-0047-97) to allow an existing 65-foot tall non-conforming pole sign two feet from the front property line where five feet is the minimum required setback in a C-1 (Limited Commercial) district.
12/18/03	The Planning Commission approved a Site Development Plan Review (SDR-3321) for a 2,400 square-foot expansion of an existing Convenience Store with a Waiver of the perimeter and parking lot landscaping at 3701 W. Sahara Avenue. Staff recommended approval of the request.
08/03/07	A deed was recorded for a change of ownership at 3701 W. Sahara Avenue.
02/08/08	A Code Enforcement complaint (#62166) was processed for illegal signage at 3701 W. Sahara Avenue. The issue was resolved on 02/21/08.
05/19/08	A Code Enforcement complaint (#65746) was processed for a structure built without permits at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 09/17/08.
08/21/08	A Code Enforcement complaint (#68941) was processed for a repair shop using paint and chemicals at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 08/22/08.

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05/14/09	The Planning Commission will consider a related Site Development Plan Review (SDR-34010) for a proposed 3,018 square-foot Convenience Store with fuel pumps and a Waiver to allow a zero-foot landscape buffer on a portion of the south and west perimeter where eight feet is required and to allow a Waiver of the Building Placement and Orientation Standards and a Special Use Permit (SUP-34006) for a Beer/Wine/Cooler Off-Sale Establishment on 0.58 acres at the southwest corner of Sahara Avenue and Valley View Boulevard.
<i>Related Building Permits/Business Licenses</i>	
1966	The County Assessors Office indicates a construction date of 1966 for the building located at 3701 W. Sahara Avenue.
10/30/97	A Building Permit (#97022032) was issued to re-locate an existing pole sign at 3701 W. Sahara Avenue. The permit was finalized on 12/06/97.
10/08/07	A Business License (#C05-01515) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
10/08/07	A Business License (#G02-00779) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
02/14/08	A Business License (#R05-00573) was issued for a restaurant, take-out only at 3701 W. Sahara Avenue. The license is currently active.
04/10/08	A Business License (#C05-02600) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
04/10/08	A Business License (#C15-00361) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
07/30/08	A Business License (#C05-02627) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
07/30/08	A Business License (#S05-01046) was issued for a service station at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
07/30/08	A Business License (#C05-00366) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
08/06/08	A Business License (#A45-00533) was issued for auto detailing at 3701 W. Sahara Avenue. The license is currently active.
08/11/08	A Business License (#G02-00823) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license is currently active.
<i>Pre-Application Meeting</i>	
03/06/09	Staff met with the applicant and reviewed the requirements for a Site Development Plan Review, Variance and Special Use permit applications. • Waivers and exceptions of perimeter landscaping and building placement and orientation standards were also discussed. • Existing business licenses and building permits • Intended use and residential adjacency requirements

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<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application nor was one held.	
<i>Field Check</i>	
04/09/09	A field check was completed on the indicated date. An existing Auto Repair Garage, Minor with fuel pumps at 3701 W. Sahara Avenue was noted.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.58 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
North	Retail	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single-Family Dwellings	L (Low Density Residential)	R-1 (Single Family Residential)
East	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
West	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	
<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-foot)	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

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following development standards are proposed:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	0.58 acres	Y
Min. Lot Width	100 Feet	170 Feet	Y

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Min. Setbacks			
• Front (east property line)	25 Feet	66.5 Feet	Y
• Side (south property line)	10 Feet	Zero Feet	N
• Corner (north property line)	15 Feet	34.5 Feet	Y
• Rear (west property line)	20 Feet	25.9 Feet	Y
Max. Lot Coverage	50%	25%	Y
Max. Building Height	N/A	19 Feet	Y
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y

Pursuant to Title 19.08.060 Residential Adjacency Standards

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	57 Feet	20 Feet	N
Adjacent development matching setback	15 Feet	20 Feet	Y
Trash Enclosure	50 Feet	60 Feet	Y

ANALYSIS

The proposed 3,018 square-foot Convenience Store with fuel pumps fails to meet both Title 19.08.050 Development Standards and Title 19.08.060 Residential Adjacency Standards. The proposed building is located zero feet from the southern property line, which requires a 10-foot setback in a C-1 (Limited Commercial) district is required, which is a deviation of 100%. Furthermore, the applicant fails to meet the 3:1 proximity slope requirement, which requires the proposed 19-foot building to be located 57 feet from the residential property to the south, but due to the intervening right-of-way the setback is reduced to 20 feet.

Alternative site design or a project of smaller scope would alleviate the need for this Variance; therefore, staff is recommending denial of the request as the applicant has created a self-imposed hardship by proposing to build within the required setback and locate the proposed Convenience Store too close to existing single-family residential homes to the south.

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 build within the required setback and locate the proposed Convenience Store to close to existing single-family residential homes to the south. 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

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ASSEMBLY DISTRICT 8

SENATE DISTRICT 11

NOTICES MAILED 871

APPROVALS 0

PROTESTS 10