



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MARCH 25, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: TXT-37402 - TEXT AMENDMENT - PUBLIC HEARING -

APPLICANT/OWNER: CITY OF LAS VEGAS

** CONDITIONS **

Staff recommends APPROVAL.

1.19.00.070 is hereby amended as follows:

19.00.070 ENFORCEMENT

F. Appeals of Interpretation

Any person aggrieved in connection with the inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of any provision for which no application referenced herein is applicable of this Title may appeal the decision to the City Council. An appeal must be in written form and must be filed in the office of the City Clerk, with a copy to be filed in the office of the Department of Planning and Development. The appeal must be filed within ten days after the administrative decision is made and shall specifically describe the decision at issue and the basis for the appeal. The appeal shall be considered on the next available agenda of the City Council.

2.19.18.030 is hereby amended as follows:

19.18.030 GENERAL PLAN AMENDMENT

C. Application

- 1. Initiation of Application.** A General Plan Amendment may be initiated by the Planning and Development Department, the Planning Commission or the City Council, or by means of an application filed by the owner(s) of record of each parcel of property proposed for a General Plan Amendment.
- 4. Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a General Plan Amendment application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has: ~~entered into a contract with the governmental entity to obtain ownership of the property.~~

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TXT-37402 - Conditions Page Two
March 25, 2010 - Planning Commission Meeting

- a. Entered into a contract with the governmental entity to obtain ownership of the property; or
- b. Provided a letter of no objection from the governmental entity.

3.19.18.040 is hereby amended as follows:

19.18.040 REZONING

C. Minimum Site Requirements

Property which is proposed to be rezoned to the following zoning districts must meet the minimum criteria denoted below in order to be considered for rezoning, ~~except that a minimum site area requirement may be waived in a particular case by the City Council.~~

D. Application - General

- 2. Initiation of Application.** An application for a rezoning may be initiated by the Planning and Development Department, the Planning Commission or by the City Council, or by means of an application filed by the owner(s) of record of each parcel of property proposed for rezoning.
- 3. Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a rezoning application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has: ~~entered into a contract with the governmental entity to obtain ownership of the property.~~
 - a. Entered into a contract with the governmental entity to obtain ownership of the property; or
 - b. Provided a letter of no objection from the governmental entity.
- 6. Contiguous Land.** Except with respect to rezoning applications initiated by the Planning and Development Department, the Planning Commission or the City Council, all of the land in the application shall be contiguous with at least one common point.

H. Planning Commission Public Hearing and Action

2. Notice

- b. Names Provided.** The Department of Planning and Development shall provide, at the request of the applicant, the name, address ~~and phone number~~ of any person notified pursuant to Subparagraph (F) above.

TXT-37402 - Conditions Page Three
March 25, 2010 - Planning Commission Meeting

~~N. Authorization to Proceed~~

~~Approval of a rezoning application by the City Council constitutes a declaration of intent to amend the Official Zoning Map Atlas of the City to reflect the zoning district approved for the property. Such approval authorizes the applicant to proceed with the process to develop and/or use the property in accordance with the development and design standards and procedures of all City departments and in conformance with all requirements and provisions of the City of Las Vegas Municipal Code.~~

4.19.18.050 is hereby amended as follows:

19.18.050 SITE DEVELOPMENT PLANS

B. Applicability

- 4. Certain Conversions.** The conversion of any development from multi-family or apartment development to condominium status, ~~or the conversion of any condominium development to a rental-only multi-family or apartment development,~~ shall require a Site Development Plan Review.

C. Authority

The Director shall have the authority to determine whether a Site Development Plan will be exempt or subject to a major review or a minor review and to approve or deny any Site Development Plans which requires a minor review. However, final approval authority shall rest with:

D. Design Standards

All required Site Development Plans shall meet or exceed the minimum standards established in this Title. In addition, the City's may adopt policy documents entitled "Landscape, Wall and Buffer Standards" ~~is as~~ a resource for acceptable standards and design solutions. To the extent that such documents establishes minimum requirements and standards and ~~is~~ are formally adopted by the City Council, Site Development Plans must comply with ~~that~~ those documents.

F. Minor Review of Site Development Plans

- 1. Minor Review Decisions.** Site Development Plans requiring Minor Reviews may be approved administratively by the Director. Minor Reviews include but are not limited to:
- a. Alterations which affect the external dimensions of a building or structure meeting all code requirements and any previous conditions of discretionary approval.
 - b. New construction, commercial or industrial, 5000 square feet or less meeting all code requirements.

TXT-37402 - Conditions Page Four
March 25, 2010 - Planning Commission Meeting

- c. Residential construction up to 4 units meeting all code requirements and not part of a sequential application for additional units.
- 3. **Minor Review Appeal by City Council.** The administrative approval of a Site Development Plan pursuant to this Section (F) shall be final action unless, within 10 days following the approval, a member of the City Council files with the Director a written request ~~for the Council to appeal review~~ the approval. In the event such a request is filed, ~~the Council shall have final authority to approve, deny or modify the~~ a Major Site Development Plan Review shall be required.

G. Major Review of Site Development Plans

2. Major Review Process

- a. **Application.** A pre-application shall be required prior to the submittal of any application for a Major Development Review. An application for a Major Development Review shall be filed in the Department of Planning and Development. The application shall be signed and notarized by:
 - i. The owner of the property where the development is to occur or by the owner's authorized agent;
 - ii. The applicant, when the property is owned by the State of Nevada or the United States of America, and the applicant has entered into a contract with the governmental entity to obtain ownership of the property or has a letter of no objection from the governmental entity. In cases where the applicant is providing a letter of no objection, any approval shall be conditioned upon the applicant securing a contract to obtain ownership of the property.
- f. **Appeal of Planning Commission Action.** If the applicant is aggrieved by the Planning Commission's denial of an application, or by any condition imposed upon an approval, the applicant may appeal the decision to the City Council by written request. If an owner of property within the notification area wishes to appeal an approval, they may appeal the decision. The Any appeal must be filed in the Office of the City Clerk Planning and Development Department within 10 days after the Planning Commission's action. Fee for public hearing as set by resolution of the City Council shall accompany appeal.

H. Amendment to an Approved Site Development Plan

- 1. **Minor Amendment.** Minor relocation or reorientation of buildings, lot lines and/or easements, relocation of internal access and circulation; relocation or rearrangement of parking areas, reduction of established square footage and/or density limitations ~~by 10 percent or less~~, and increase of landscape or building setbacks are considered minor amendments and may be approved administratively. However, the Director has no authority to approve any:
 - a. Alteration in the basic relationship of the proposed development to adjacent property;

TXT-37402 - Conditions Page Five
March 25, 2010 - Planning Commission Meeting

- b. ~~Material change in the uses or types of uses permitted;~~ Change necessitating a waiver or variance of development standards set by Title 19.
- c. Material increase in the maximum density, floor area, or height by more than 10 percent;
- d. Material decrease in the amount of off-street parking, unless the amount of parking remains sufficient and conforms to the requirements of this Title;
- e. Reduction in the minimum yards or setbacks by more than 10 percent; or
- f. Material change in the characteristics of the elevational drawings ~~or Site Development Plan as approved~~ so as to alter the basic design quality and character of the proposed development.
- g. Material change not necessitated by minimum requirements of adopted city codes- building (Title 16), drainage, (Chapter 20.10), and Uniform Standard Drawings.

J. Expiration

A Site Development Plan which is not exercised within the approval period shall be void, unless an extension of time is granted upon a showing of good cause. An extension of time may be granted only if application therefore is made prior to the expiration of the approval period. For purposes of this Subsection (J):

- 1. The “approval period” for a Site Development Plan is the time period specified in the approval, if one is specified, and is two years otherwise.
- 2. A Site Development Plan is exercised upon the issuance of a building permit for the principal structure on the site or the recordation of a final map for residential subdivision.

5.19.18.060 is hereby amended as follows:

19.18.060 SPECIAL USE PERMIT

B. Authority

The City Council, ~~upon recommendation by and~~ the Planning Commission, shall have the authority to approve, approve with conditions, or deny an application for a Special Use Permit.

G. Planning Commission Public Hearing and Action

2. Notice

- b. **Names Provided.** The Department of Planning and Development shall provide at the request of the applicant, the name, address and phone number of any person notified pursuant to Subparagraph (F) above.

~~J. Appeals and City Council Review~~

~~{Ord 5792 — 10/05/05}~~

- ~~1. **Appeal of Denial.** A decision by the Planning Commission to deny a Special Use Permit application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, the applicant appeals the decision by written request filed with the City Clerk. The City Council may establish a fee for the filing of an appeal, and the amount of any fee so established shall be as set forth in the fee schedule.~~
- ~~2. **Final Action by City Council Concerning Approval.** A decision by the Planning Commission to approve a Special Use Permit application constitutes a recommendation to the City Council. The City Council shall make the final decision concerning the application.~~

J. Planning Commission Decision.

1. In making its final decision, the Planning Commission shall consider the recommendation of the City Departments, the evidence presented at the hearing and the criteria set forth in Section (L) of this subchapter. The Planning Commission may approve, approve with conditions, or deny an application. All actions by the Planning Commission are final unless:
- a) Otherwise required by prior action of the City Council; or
- b) a member of the City Council files with the department of Planning and Development, within 10 days following the approval, a written request for the Council to review the approval.
2. If the applicant is aggrieved by the Planning Commission's denial of an application, or by any condition imposed upon an approval, the applicant may appeal the decision to the City Council by written request. If the owner of property within the notification area wishes to appeal an approval, they may appeal the decision. Any appeal must be filed in the Office of the Planning and Development Department within 10 days after the Planning Commission's action. Fee for public hearing as set by resolution of the City Council shall accompany appeal.

TXT-37402 - Conditions Page Seven
March 25, 2010 - Planning Commission Meeting

M. Amendments to an Approved Special Use Permit

~~A Special Use Permit is limited to the uses and structures which are shown on the approved site development plan and are consistent with any conditions of approval.~~ Any request to amend or modify an approved Special Use Permit shall be submitted to the Department of Planning and Development. Upon receipt of such a request, the Director shall determine if the request constitutes a minor amendment or a major amendment. Minor amendments may be approved administratively. A major amendment requires approval by the Planning Commission or City Council, ~~after a recommendation by the Planning Commission~~. Minor and major amendments are categorized as follows:

1. Minor Amendments. A minor amendment includes a:

- ~~a. Relocation or reorientation of buildings which does not alter the basic relationship to adjacent property;~~ Reduction or expansion of the use permitted by the Special Use Permit that is less than 50 percent of the square footage of the original approval.
- ~~b. Minor adjustment in lot lines and/or easements;~~ Change of location on the same legal parcel of original approval where use meets provisions of section "a" above.
- ~~c. Minor rearrangement of internal access and circulation;~~ Change in size or location meeting criteria above may not require a waiver or an increase of an original waiver requirement of distance separation requirements.
- ~~d. Relocation or rearrangement of parking areas;~~
- ~~e. Change in the approved square footage or density that does not represent an increase of more than 10 percent;~~
- ~~f. Change in landscaping or building setbacks that does not represent a significant decrease.~~

P. Termination-Expiration

1. Failure to Exercise

- 1. a.** A Special Use Permit which cannot be exercised except upon construction of a new building, and which is not exercised within the approval period, shall be void, unless the Planning Commission or City Council whichever body took final action grants an extension of time upon a showing of good cause. An extension of time may be granted only if application therefore is made prior to the expiration of the approval period. For purposes of the Subparagraph (a):

- a. i.** The "approval period" for a Special Use Permit is the time period specified in the approval, if one is specified, and is two years otherwise.
- b. ii.** A Special Use Permit is exercised upon the issuance of a building permit for the new construction.

TXT-37402 - Conditions Page Eight
March 25, 2010 - Planning Commission Meeting

- 2.b.** A Special Use Permit which does not require the construction of a new building in order to be exercised, and which is not exercised within the approval period shall be void, unless the Planning Commission or City Council whichever body took final action grants an extension of time upon a showing of good cause. An extension of time may be granted only if application therefore is made prior to the expiration of the approval period. For purposes of the Subparagraph (b):
- a. i.** The “approval period” for a Special Use Permit is the time period specified in the approval, if one is specified, and is ~~one year~~ two years, otherwise.
- b. ii.** A Special Use Permit is exercised upon the approval of a business license to conduct the activity, if one is required, or otherwise, upon the issuance of a non-work certificate of occupancy or approval of a final inspection for tenant improvements.

6.19.18.070 is hereby amended as follows:

19.18.070 VARIANCE

J. Appeals

- 1. Denials Generally.** Except as otherwise provided in Subsection (3), a decision by the Planning Commission to deny a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, the applicant appeals the decision by written request filed with the City Clerk Department of Planning and Development. ~~The City Council may establish a fee for the filing of an appeal, and the amount of any fee so established shall be set forth in the fee schedule.~~ Fee for public hearing as set by resolution of City Council shall accompany appeal filed.
- 2. Approvals Generally.** Except as otherwise provided in Paragraph (3), a decision by the Planning Commission to approve a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, a member of the City Council requests that the item be reviewed by the Council, or an aggrieved ~~person~~ property owner within the notification area appeals the decision by written request filed with the City Clerk. ~~The City Council may establish a fee for the filing of an appeal, and the amount of any fee so established shall be as set forth in the fee schedule~~ department of Planning and Development. Fee for public hearings as set by Resolution of City Council shall accompany appeal filed.
- 3. Automatic Review by City Council.** ~~In each of the following cases, t~~ The decision by the Planning Commission on a Variance application constitutes a recommendation to the City Council, and the City Council shall make the final decision concerning the application on:

- ~~a.~~ A Variance application that has been approved by the Planning Commission regarding a reduction in required parking or regarding an existing structure; or
- b. A Variance application, whether approved or denied by the Planning Commission, that is related to and has been filed in connection with an application for a General Plan Amendment; an application for rezoning; or an application for a Special Use Permit or ~~an application for Site Development Plan Review~~ that requires final action by the City Council.

O. ~~Termination~~ Expiration

1. Failure to Exercise

- a. A Variance which will require the construction of a new building and which is not exercised within ~~two years after the approval period~~ shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance. An extension of time may be granted only if application therefore is made prior to the expiration of the two-year period. For purposes of the Subparagraph (a);
 - a) The “approval period” for a Variance is the time period specified in the approval, if one is specified and is two years otherwise
 - b) A a Variance is exercised upon the issuance of a building permit for the new construction.
- b. A Variance which will not require the construction of a new building and which is not exercised within ~~one year after approval~~ the approval period shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance. An extension of time may be granted only if application therefore is made prior to the expiration of the ~~one-year approval period~~. For purposes of this Subparagraph (b), a Variance is exercised upon the approval of a business license to conduct the activity, if one is required, or otherwise, upon the issuance of a non-work certificate of occupancy or approval of a final inspection for tenant improvements.

7.19.18.080 is hereby amended as follows:

TXT-37402 - Conditions Page Ten
March 25, 2010 - Planning Commission Meeting

19.18.080 ADMINISTRATIVE DEVIATION

A. Purpose

The purpose of this subchapter is to establish a procedure (entitled an Administrative Deviation) to allow for minor adjustments of specific requirements of the Zoning Code where, because of special and unique conditions applicable to a specific lot or structure, the literal enforcement of the requirements as applied to the lot or structure would result in an unnecessary hardship. ~~The Administrative Deviation procedure is available as an alternative to the Variance procedure, to be pursued at the option of the applicant. If the Administrative deviation is denied, a Variance application is required.~~

A. Authority

The Director of the Department of Planning and Development shall have the authority to grant an Administrative Deviation, in accordance with the provisions of this Subchapter, to allow a minor deviation up to 10% residential lots regarding the following:

1. Front, rear and side yard building setbacks (~~for developed single family lots only~~);
2. ~~Block~~ wall heights; and
3. Accessory structure setbacks and heights.
4. Planting areas and materials.
5. Loading and stacking spaces.

C. Eligibility to Apply

1. No application for an Administrative Deviation regarding a building setback may be submitted unless:
 - ~~d. The applicant submits signatures representing ownership of all abutting properties indicating no objection to the requested deviation.~~
2. No application for an Administrative Deviation may be submitted regarding the height of an accessory structure unless:
 - ~~b. The applicant submits signatures representing the ownership of all abutting properties indicating no objection to the requested deviation, or the ownership of all properties within 100 feet of the subject property, whichever would require the most signatures.~~

TXT-37402 - Conditions Page Eleven
March 25, 2010 - Planning Commission Meeting

- ~~3. For purposes of this Section (C), the term “abutting” means sharing any property line with the parcel for which the deviation is sought, or which would share a property line but for an intervening right of way. In the case of deviations for setbacks or block walls, the Director shall have the authority to waive the signature requirement regarding properties which are deemed not to be adversely affected.~~

19.18.150 REQUIRED REVIEWS

A. Purpose

The purpose of a Required Review is to provide a mechanism for reviewing applications for appropriateness of conduct in accordance to this Title and/or compliance with conditions of approval imposed by the Planning Commission or City Council.

B. Application.

An application for a Required Review shall be filed with the Department of Planning and Development on a form provided by the Department. The application shall be signed by the owner of record of the property for which the Required Review is sought, and shall be notarized as to the owner’s signature. Fees as set by Resolution of City Council shall be required.

C. Hearing.

An application for a Required Review shall be heard by the Planning Commission or City Council, depending on which body took final action to approve. Notice of the time, place and purpose of the hearing must be given at least ten days before the hearing by:

1. Publishing the notice in a newspaper of general circulation within the City; and
2. Mailing a copy of the notice to:
 - a) The applicant;
 - b) Each owner of real property located within a minimum of one thousand feet of the property described in the application;
 - c) The president or head of any registered local neighborhood organization whose organization boundaries are located within the minimum of one mile of the property described in the application; and

TXT-37402 - Conditions Page Twelve
March 25, 2010 - Planning Commission Meeting

- d) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this Paragraph (2).

D. Decision.

The Planning Commission or City Council may approve or deny an application for a Required Review.

E. Notice of Decision.

Written notice of the decision by the Planning Commission or City Council, as the case may be, including the reasons therefore, shall be provided to the applicant or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date that notice of the decision is filed with the City Clerk.

F. Minor Required Reviews.

Minor Required Reviews, as determined by condition of approval, are completed administratively by the Director.

TXT-37402 - Staff Report Page One
March 25, 2010 - Planning Commission Meeting

**** STAFF REPORT ****

EXECUTIVE SUMMARY

Discussion and possible action to amend Title 19.00 and 19.18 of the Las Vegas Zoning Code to modify procedures and application requirements for land use applications.

BACKGROUND INFORMATION

In December 2009, the Development Review Process Efficiency Analysis (DRP) contracted by the city was submitted. On January 20, 2010, the City Council accepted and approved the report.

ANALYSIS

The DRP recommendation #3 is to “Use the recommendations made by the Planning Director in the TXT-23848 staff report dated 09/13/2007 as the basis for improving the entitlement process. This well thought out recommendation would allow Planning Commission to take final action on Special Use Permits. The consequence of this practice, which is generally consistent with other jurisdictions in the region, would reduce the timeframe for the approval process and the amount of staff time spent processing applications (thousands of staff hours are dedicated to this annually). It would allow the City Council to devote more time to other pressing matters.”

Finding #18 “The language in Title 19 allows for the applicant to appeal anything that the Planning & Development Department does in its review of an application”

Recommendation #18 “Limit the conditions under which an applicant can appeal. This action will improve the quality of first reviews and the amount of staff time expended recycling applications back to the City Council.”

RECOMMENDATION

Staff recommendation is to limit appeals. The proposal at this time is to clarify that appeals are only allowed when there is no provision in code for an application that would be allowed for the request. Staff is recommending that SUP’s may be final action at Planning Commission. Notification to the City Council office will continue to be closely monitored.

TXT-37402 - Staff Report Page Two
March 25, 2010 - Planning Commission Meeting

The chart below summarizes the changes proposed for consideration. They are presented as clarifying versus substantive.

Section	Existing	Clarifying Proposed	Substantive Proposed
1	Allows appeal of all administrative decisions.	a) Allows appeals only when no application procedure exists in code.	
2	GPA Applications	a) Staff initiate amendments b) BLM applications with letter of no objection	
3	Rezoning	a) Staff initiate amendments b) BLM applications with letter of no objection c) Phone numbers of parties notified are unavailable d) Rezoning no longer are ROI's	a) Disallow waiver of size requirement of zoning districts
4	SDR	a) Condominium to apartment conversion to not require Site Development Plan Review b) Staff to determine exempt, in addition to major or minor per code c) All adopted design standards apply d) BLM applications with letter of no objection e) Appeals allowed by aggrieved property owners within notification area f) Recordation of final map exercises residential subdivision SDR	a) Minor Site Development Plan Reviews of building additions meeting code and all previous approvals up to 5000 square feet new commercial or industrial meeting code; up to 4 units and not part of additional applications b) Require pre-application meeting for Site Development Plan Review (same as Special Use Permit) c) Require noticing fee for appeals d) Allow reductions in size of approved Site Development Reviews to be minor e) Allow increase up to 10% in density, floor area or height to be minor amendments (note: no Variances)

TXT-37402 - Staff Report Page Three
March 25, 2010 - Planning Commission Meeting

5	SUP	a) Special Use Permit approval 2 years as designated to be same as other discretionary b) Appeals allowed by aggrieved property owners within notification area c) Special Use Permit exercised with non-work Certificate of Occupancy or final of Tenant Improvement	a) Special Use Permit approvals may be Planning Commission Final Action (like denials, SDR's and most Variances now) b) Allow reduction or expansion of use less than 50% of area as minor amendment c) Allow use to change location on the same parcel
6	VAR	a) All approved periods may be set in approval action, otherwise 2 years b) Appeals as above	a) Allow Variances for parking or existing structures to be Final Action at Planning Commission like all other Variances
7	Admin Deviation	a) Administrative Deviation denial necessitates a Variance application	a) Eliminate neighboring owners' signature requirement, keep code limitations
8	RQR	a) Add required reviews	

In reviewing other southern Nevada jurisdictions the following information applies regarding final actions.

Special Use Permits	City of Henderson	City of North Las Vegas	Clark County
Final Approval	Planning Commission	Planning Commission	Planning Commission
Exceptions		- Hotels - Pawn/Payday Loan	Resort Casinos

In all cases the existing procedures with regard to land use applications shall apply:

21 days prior to Planning Commission:

All cases and preliminary recommendation sent to the City Council ward staff.

Day after Planning Commission:

All cases and actions taken by Planning Commission sent to City Council ward staff. Request for review by Council via email sent to Planning and Development within 10 days.

TXT-37402 - Staff Report Page Four
March 25, 2010 - Planning Commission Meeting

Note that all SUP's, Variances and SDR's associated with GPA's and Rezoning shall always be required to go forward to the City Council as only the City Council may amend the City's General Plan and Zoning maps.

NOTICES MAILED NEWSPAPER ONLY

APPROVALS 0

PROTESTS 0