



## AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: JANUARY 10, 2012

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: CONTINENTAL SUITES - OWNER: 1213 S. LAS VEGAS BLVD., LLC

### **\*\* STAFF RECOMMENDATION(S) \*\***

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                                       | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|-------------------------------------------------------------|----------------------------------|
| VAR-43719              | Staff recommends DENIAL, if approved subject to conditions: |                                  |

### **\*\* CONDITIONS \*\***

## VAR-43719 CONDITIONS

### Planning

1. Conformance to the Conditions of Approval for a Downtown Design Review Committee Signage Design Review (ARC-43672) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All temporary signage associated with this site shall be removed within 60 days of final approval unless a Temporary Sign Permit is approved.
4. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Conditions Page Two**  
**January 10, 2012 - Planning Commission Meeting**

**Public Works**

7. Submit an Encroachment Agreement for the portions of the proposed sign located in the Las Vegas Boulevard South public right-of-way adjacent to this site. The applicant must carry an insurance policy for the term of the encroachment agreement and add the City of Las Vegas as an additionally insured entity on this insurance policy. If requested by the City, the applicant shall remove the sign encroaching in the public right-of-way at the applicant's expense pursuant to the terms of the City's encroachment agreement. The installation and maintenance of all private structures in the public right-of-way shall be the responsibility of the adjacent property owner(s) and shall be transferred with the sale of the property for the entire term of the Encroachment Agreement.

**Staff Report Page One**  
**January 10, 2012 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

A 25-foot tall freestanding sign is proposed along the frontage at an existing Motel at 1213 South Las Vegas Boulevard. The sign as proposed would encroach three feet into the public right-of-way and would therefore have a zero-foot setback from the right-of-way. As the sign could be constructed to meet the requirements of Title 19, staff recommends denial. If denied, a permit for the proposed sign could not be issued.

**ISSUES**

- A Variance of LVMC 19.08.120(F)(16) is required to allow a zero-foot setback for a proposed freestanding sign where five feet from the right-of-way is required. An Encroachment Agreement is required for the portion of the sign that extends into the public right-of-way.
- The sign design was approved by the Downtown Design Review Committee (DDRC) on 11/15/11.
- Las Vegas Boulevard is designated as a 100-foot Primary Arterial in the subject location; however, the roadway has not been built out to its maximum capacity.
- The existing temporary signage located on the subject property and on the sign to the north of this site shall be removed unless a Temporary Sign Permit is obtained through the Department of Planning.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i> |                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05/24/99                                                          | The City Council denied a request for a Rezoning (Z-0019-99) from C-1 (Limited Commercial) and C-2 (General Commercial) to C-2 (General Commercial) on a larger 7.60-acre tract that included the subject parcel. The Planning Commission recommended denial and staff had recommended approval.                                                                                                                            |
| 12/15/04                                                          | The City Council approved a Site Development Plan Review (SDR-5369) for a proposed 505 square-foot lobby addition to an existing Motel. The applicant's accompanying request for Waivers of Downtown Centennial Plan streetscape standards was partially approved, with conditions to provide a portion of the required streetscape. The Planning Commission and staff recommended approval. The approval expired 12/15/06. |

**Staff Report Page Two**  
**January 10, 2012 - Planning Commission Meeting**

|          |                                                                                                                                                                                                                                                                  |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/18/07 | Department of Planning staff approved a Site Development Plan Review (SDR -23776) for a proposed 529 square-foot lobby expansion within an existing Motel on 1.17 acres at 1213 South Las Vegas Boulevard. The approval expired 09/18/09.                        |
| 03/15/11 | A Code Enforcement case (99064) was processed for demolition, foundation repair, underground plumbing and sewer work, installation of water valves and electrical work without permits at 1213 South Las Vegas Boulevard. The case was resolved 04/04/11.        |
| 10/25/11 | Department of Planning staff approved a Temporary Commercial Permit (TCP-43658) to allow an outdoor special event with music, third party catering and retail sales of souvenirs from 11/11/11 to 11/13/11 in the parking lot at 1213 South Las Vegas Boulevard. |
| 11/15/11 | The Downtown Design Review Committee approved a request for a Signage Design Review (ARC-43672) for a proposed 25-foot tall freestanding sign at 1213 South Las Vegas Boulevard. Staff recommended denial.                                                       |
| 12/13/11 | The Planning Commission voted to hold this item in abeyance to the January 10, 2012 Planning Commission meeting.                                                                                                                                                 |
| 12/13/11 | The Planning Commission struck the appeal of the approval of the DDRC for a Signage Design Review (ARC-43672) as the item will be considered by the City Council on January 18, 2012.                                                                            |

| <b><i>Most Recent Change of Ownership</i></b> |                                                |
|-----------------------------------------------|------------------------------------------------|
| 01/03/11                                      | A deed was recorded for a change in ownership. |

|          |                                                |
|----------|------------------------------------------------|
| 01/03/11 | A deed was recorded for a change in ownership. |
|----------|------------------------------------------------|

| <b><i>Related Building Permits/Business Licenses</i></b> |                                                                                                                                                                                                                                    |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12/03/10                                                 | A building permit (177221) was issued for a tenant improvement for Buildings #1 and 2 at an existing Motel at 1213 South Las Vegas Boulevard. A final inspection was approved and Certificate of Occupancy was issued on 02/24/11. |
| 03/21/11                                                 | A building permit (183768) was issued for a tenant improvement for Building #3 at an existing Motel at 1213 South Las Vegas Boulevard. A final inspection was approved and Certificate of Occupancy was issued on 05/25/11.        |
| 05/16/11                                                 | A business license (M06-03210) was issued for General Merchandise at 1213 South Las Vegas Boulevard. The license is still active.                                                                                                  |
| 05/16/11                                                 | A business license (M08-00206) was issued for a 151-unit Motel at 1213 South Las Vegas Boulevard. The license is still active.                                                                                                     |

|          |                                                                                                                                                                                                                                    |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
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**Staff Report Page Three**  
**January 10, 2012 - Planning Commission Meeting**

| <b><i>Pre-Application Meeting</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/13/11                              | A pre-application meeting was held with the applicant to discuss submittal requirements for a sign setback Variance on the subject site. It was noted that the proposed sign would project into the public right-of-way and that an encroachment permit would need to be approved by the City Council prior to any construction within the right-of-way. Downtown Design Review Committee approval of the sign design would need to be obtained prior to the hearing on this item. A street address would need to be added to the sign per Title 19. |

| <b><i>Neighborhood Meeting</i></b>                        |
|-----------------------------------------------------------|
| A neighborhood meeting is not required, nor was one held. |

| <b><i>Field Check</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/03/11                  | <p>A field check of the subject site was conducted by staff. The following items were noted:</p> <ul style="list-style-type: none"> <li>• There is currently no freestanding sign on the property.</li> <li>• Two portable signs and two banners advertising onsite services are located on the property. One of the banners is attached to a freestanding sign on the adjacent property to the north.</li> </ul> |

| <b><i>Details of Application Request</i></b> |      |
|----------------------------------------------|------|
| <b><i>Site Area</i></b>                      |      |
| Net Acres                                    | 1.17 |

| <b><i>Surrounding Property</i></b> | <b><i>Existing Land Use Per Title 19.12</i></b> | <b><i>Planned or Special Land Use Designation</i></b> | <b><i>Existing Zoning District</i></b>                |
|------------------------------------|-------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------|
| Subject Property                   | Motel                                           | C (Commercial)                                        | C-2 (General Commercial) and C-1 (Limited Commercial) |
| North                              | Wedding Chapel                                  | C (Commercial)                                        | C-2 (General Commercial)                              |
|                                    | Motel                                           |                                                       |                                                       |
|                                    | General Retail Store<br>Parking Lot             | C (Commercial)                                        | C-1 (Limited Commercial)                              |
| South                              | Hotel                                           | C (Commercial)                                        | C-2 (General Commercial) and C-1 (Limited Commercial) |
| East                               | Single Family, Detached                         | L (Low Density Residential)                           | R-1 (Single Family Residential)                       |
| West                               | General Retail Store                            | C (Commercial)                                        | C-2 (General Commercial)                              |

**Staff Report Page Four**  
**January 10, 2012 - Planning Commission Meeting**

| <b><i>Master Plan Areas</i></b>                                     | <b><i>Yes</i></b> | <b><i>No</i></b> | <b><i>Compliance</i></b> |
|---------------------------------------------------------------------|-------------------|------------------|--------------------------|
| <b>Master Plan Area</b>                                             |                   |                  |                          |
| Downtown Centennial Plan                                            | X                 |                  | Y                        |
| John S. Park Neighborhood Plan                                      | X                 |                  | N/A                      |
| <b><i>Special Purpose and Overlay Districts</i></b>                 | <b><i>Yes</i></b> | <b><i>No</i></b> | <b><i>Compliance</i></b> |
| <b>Special Purpose and Overlay Districts</b>                        |                   |                  |                          |
| Downtown Centennial Plan Overlay District (Downtown South District) | X                 |                  | Y                        |
| Las Vegas Boulevard Scenic Byway Overlay District                   | X                 |                  | Y                        |
| <b>Trails</b>                                                       | X                 |                  | Y                        |
| <b>Rural Preservation Overlay District</b>                          |                   | X                | N/A                      |
| <b>Las Vegas Redevelopment Plan Area</b>                            | X                 |                  | Y                        |
| <b>Development Impact Notification Assessment</b>                   |                   | X                | N/A                      |
| <b>Project of Regional Significance</b>                             |                   | X                | N/A                      |

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08, the following standards apply:*

| <b><i>Freestanding Signs:</i></b>                  |                                                                                          |                                                                                             |                          |
|----------------------------------------------------|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------------------|
| <b><i>Standards</i></b>                            | <b><i>Required/Allowed</i></b>                                                           | <b><i>Provided</i></b>                                                                      | <b><i>Compliance</i></b> |
| Maximum Number                                     | 1/200 feet street frontage;<br>1 total                                                   | 1 total                                                                                     | Y                        |
| Maximum Area                                       | 2 SF/foot street frontage;<br>260 SF                                                     | 120 SF                                                                                      | Y                        |
| Maximum Height                                     | 40 Feet                                                                                  | 25 Feet                                                                                     | Y                        |
| Separation Distance from another Freestanding Sign | 100 feet from freestanding or monument sign on same lot                                  | No other freestanding or monument sign on same lot (nearest sign is 100 feet from proposed) | Y                        |
| Minimum Setback                                    | 5 Feet                                                                                   | 0 Feet                                                                                      | N                        |
| Illumination                                       | 75% of total surface areas for all signs must contain neon illumination and/or animation | 76% neon                                                                                    | Y                        |

**Staff Report Page Five**  
**January 10, 2012 - Planning Commission Meeting**

| <i>Street Name</i>  | <i>Functional Classification of Street(s)</i> | <i>Governing Document</i>           | <i>Actual Street Width (Feet)</i> | <i>Compliance with Street Section</i> |
|---------------------|-----------------------------------------------|-------------------------------------|-----------------------------------|---------------------------------------|
| Las Vegas Boulevard | Primary Arterial                              | Master Plan of Streets and Highways | 92                                | N                                     |

## ANALYSIS

The subject parcel is located in the Downtown South District within the Downtown Centennial Plan area. The Downtown South District is intended to accommodate a wide variety of land uses and density, and encourages redevelopment that contributes to the vitality of the area while supporting the adjacent residential uses.

The subject property is located within the Las Vegas Boulevard Scenic Byway Overlay, which is intended to preserve the character of Las Vegas Boulevard as a nighttime urban scenic route. The Overlay requires the use of neon and/or animation for all signage, and prohibits new off-premise signage. The proposed signage meets the illumination requirements of the Overlay District.

The parcel is within the boundaries of the Las Vegas Redevelopment Area, with a C (Commercial) land use designation. The use is in conformance with the Redevelopment Plan.

A Variance of LVMC 19.08.120(F)(16) is required to allow a zero-foot front yard setback where five feet is required for a proposed freestanding sign. The setback is measured from the property line to the closest edge of the sign. The pole of the proposed sign is located on private property, but the entire projecting portion of the sign and part of the main sign cabinet encroaches three feet into the public right-of-way. All other Title 19 sign standards are met, including freestanding sign separation distance and special design standards.

The use for which the sign would advertise is set back from Las Vegas Boulevard such that it is difficult to be seen from the roadway. Additionally, an existing freestanding sign on the property to the north encroaches into the right-of-way; however, this sign predates the current sign code and the encroachment is nonconforming. These conditions are factors to be considered, but do not prevent the proposed sign from being designed and positioned to meet Title 19.08 standards. Staff therefore recommends denial, subject to conditions if approved.

According to Title 19.10.100, which in part provides for sign standards within the Scenic Byway, encroachment of signage into rights-of-way is not encouraged, and the proper encroachment approvals must be obtained prior to installation of such signage. This is added as a condition of approval. The design of the sign was approved by the DDRC independently of the encroachment.

**Staff Report Page Six**  
**January 10, 2012 - Planning Commission Meeting**

**FINDINGS (VAR-43719)**

In accordance with the provisions of Title 19.16.140(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.”

Additionally, Title 19.16.140(L) 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 sign that encroaches into the public right-of-way. Redesign and repositioning of the sign 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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**NOTICES MAILED**

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**APPROVALS**

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**PROTESTS**

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