



## AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: MAY 14, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: 5000 W OAKLEY, LLC - OWNER: 5000 W OAKLEY, LLC, ET AL

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### **\*\* STAFF RECOMMENDATION \*\***

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-48797	Staff recommends DENIAL, if approved subject to conditions:	N/A

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

## VAR-48797 CONDITIONS

### Planning

1. 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.
2. 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.
3. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Staff Report Page One**  
**May 14, 2013 - Planning Commission Meeting**

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

**PROJECT DESCRIPTION**

The applicant is proposing to adjust the current lot line between Lots 2 and 3 of Parcel Map File 43 Page 1 to coincide with a deed line to the west. This will be accomplished by remapping both parcels with the adjusted east property line, therefore creating a zero-foot setback along the western edge of Building C, at 5000 West Oakey Boulevard. Staff recommends denial of this request, as the resulting deficient side yard setback is the result of a self-imposed hardship.

**ISSUES**

- The proposed zero-foot setback is a self-imposed hardship created by the relocation of the east property line to the edge of the existing building. There are no proposed structures affiliated with this proposal.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i>	
04/11/84	A four-lot Parcel Map (PM 43-1) was recorded on property located at the southwest corner of Decatur Boulevard and Doe Avenue.
03/18/87	The City Council approved a Rezoning (Z-0015-87) from R-1 (Single Family Residential [under Resolution of Intent to R-PD10 (Residential Planned Development – 10 Units Per Acre) and C-1 (Limited Commercial)] to C-1 (Limited Commercial) on approximately 5 acres located between Oakey Boulevard and Doe Avenue, approximately 200 feet west of Decatur Boulevard.
06/09/87	The plot plan (Z-0015-87) of the site at 5000 W. Oakey Boulevard was approved upon the issuance of building permits. Parking was approved at one space per 400 square feet of office and retail and one space per 2,000 square feet of warehouse space.
07/07/04	The City Council approved a Special Use Permit (SUP-4351) for a proposed Light Assembly and Fabrication Facility located at 5000 West Oakey Boulevard. The Planning Commission and staff recommended approval.
05/17/06	The City Council approved a Special Use Permit (SUP-11883) for a proposed Pet Boarding Facility located at 5000 West Oakey Boulevard, Units #E10 and #E11. The Planning Commission and staff recommended approval.
01/10/13	Staff denied a request for a two-lot Parcel Map (PMP-47934) for a merger and resubdivision on 6.17 acres at 1616 South Decatur Boulevard and 5000 West Oakey Boulevard pending the approval of this submitted Variance.

MH

Staff Report Page Two  
May 14, 2013 - Planning Commission Meeting

<b><i>Most Recent Change of Ownership</i></b>	
01/23/13	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
06/19/92	A building permit (#92-149717) was issued for tenant improvements to an 18,472 square-foot building at 5000 W. Oakey Boulevard (Building C). A final inspection was completed on 07/07/92.

<b><i>Pre-Application Meeting</i></b>	
03/21/13	A pre-application meeting was held with staff to discuss the submittal requirements for a requested Variance to the side yard setback created by the shifting of the east property line westwards to the edge of Building C, at 5000 West Oakey Boulevard.

<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required for this type of application, nor was one held.	

<b><i>Field Check</i></b>	
04/09/13	Staff visited the site and found a well maintained commercial property with an approximate four-foot retaining wall along the northeast corner with a 10-foot wide drainage easement that is absent of any landscaping.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	3.5

<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	General Retail, Other Than Listed	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single-Family Residential)
South	Mini-Storage Facility	SC (Service Commercial)	C-1 (Limited Commercial)

Staff Report Page Three  
 May 14, 2013 - Planning Commission Meeting

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>	General Retail, Other Than Listed
				Motor Vehicle Sales (Used)
West		Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<b><i>Master Plan Areas</i></b>	<b><i>Compliance</i></b>
No Applicable Master Plan Area	N/A
<b><i>Special Purpose and Overlay Districts</i></b>	<b><i>Compliance</i></b>
No Applicable Special Purpose or Overlay Districts	N/A
A-O (Airport Overlay) District	Y
Rural Preservation Overlay District	Y
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></b>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

**DEVELOPMENT STANDARDS**

*Pursuant to 19.08.070, the following standards apply:*

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Setbacks			
• Front	10 Feet	50 Feet	Y
• Side	10 Feet	0 Feet	N
• Rear	35 Feet	20 Feet	Y
Max. Lot Coverage	50%	22%	Y

**ANALYSIS**

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The subject site was mapped into the current lot configuration in 1984. The site was rezoned and Building C was constructed in 1987. At that time, the building maintained a 19-foot setback from the east lot line. After Building C was completed, a deed for the property to the east was recorded with a legal description including a portion of Lot 3 that primarily contains a screened and terraced drainage channel with an easement. It was discovered later that a small portion of the rear of Building C was included within that lot. No landscaping was required during the original plot plan review in the setback area due to the existing sewer easement.

**Staff Report Page Four**

**May 14, 2013 - Planning Commission Meeting**

Property lines created by the deed are generally not recognized by Title 19 for conformance with zoning standards, only mapped (platted) lot lines are reviewed for conformance purposes. The side yard setback for Building C was 19 feet and was in conformance with respect to the side yard setback established by the Plot Plan for the site in 1987. Building C continues to be conforming with respect to the side yard setback, as the lot line has not been moved since it was first mapped; however, moving the lot line to the west more than nine feet would reduce the side yard out of conformance with the current C-1 (Limited Commercial) zoning district setback requirement.

Remapping the site as a one-lot commercial subdivision would allow interior ownership lines to be drawn through Records of Survey without regard for setbacks; however, this would first require approval of a tentative map. Alternatively, another deed could be recorded that moves the ownership line away from the building without affecting the setback distance from the current eastern lot line. Staff recommends denial of this request, as the proposed alteration of the existing lot line is a self-imposed hardship that creates a nonconforming side yard setback.

**FINDINGS (VAR-48797)**

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.”

**Staff Report Page Five**  
**May 14, 2013 - Planning Commission Meeting**

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by relocating property lines, thus creating the nonconformance. Retaining the existing property lines or establishing new property lines along the east with 10 feet from the structures would allow continued 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**            30

**NOTICES MAILED**                                    340

**APPROVALS**    0

**PROTESTS**    0