



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: OCTOBER 8, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: ARSR2, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-50418	Staff recommends DENIAL, if approved subject to conditions:	
SDR-50417	Staff recommends DENIAL, if approved subject to conditions:	VAR-50418

** CONDITIONS **

VAR-50418 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-50417) 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 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.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SDR-50417 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-50418) 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 development shall be in conformance with the site plan and landscape plan, date stamped 09/23/13, and building elevations, date stamped 07/23/13 and 09/16/13, except as amended by conditions herein.
4. A Waiver from Title 19.08.080 is hereby approved, to allow a three-foot buffer along the west property line where eight feet is required and a four-foot buffer along a portion of the south property line where 15 feet is required.
5. An Exception from Title 19.08.110 is hereby approved, to allow four parking lot trees in islands or at ends of new parking rows where a total of thirteen 24-inch box shade trees are required.
6. The existing trash enclosure shall be repaired to provide walls, gates and a roof or trellis in conformance to Title 19.08 requirements.
7. 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.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. The applicant shall coordinate with the City Surveyor and other city staff to determine the most appropriate mapping action necessary to consolidate the existing lots. The mapping action shall be completed and recorded prior to the issuance of any building permits.

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10. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. Installed landscaping shall not impede visibility of any traffic control device. The technical landscape plan shall include the following changes from the conceptual landscape plan:
 - a. All parking lot landscape islands shall contain a minimum of one 24-inch box deciduous or evergreen shade tree.
 - b. A minimum of four 5-gallon shrubs shall be planted for each proposed tree within perimeter buffers and parking lot landscape islands.
 - c. The proposed half-diamond planters along the west perimeter buffer shall be removed.
11. Prior to the submittal of a building permit application, the applicant shall meet with Department of Planning staff to develop a comprehensive address plan for the subject site. A copy of the approved address plan shall be submitted with any future building permit applications related to the site.
12. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

13. In accordance with code requirements of Title 13.56, remove all substandard improvements (sidewalk), if any, and replace with new improvements meeting Current City Standards concurrent with development of this site. The existing driveways on Charleston Boulevard may remain.
14. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The subject site contains an existing 2,152 square-foot restaurant with a drive-through lane. The applicant is proposing to demolish the existing restaurant and construct a new 1,850 square-foot Restaurant and Drive Through ("Restaurant Building") south of the original footprint. In addition, a new 2,450 square-foot commercial building ("Building B") is proposed to be located in the northeast corner of the property and designed to be improved into up to four retail or office tenant spaces. Building B as proposed would not meet the required side or rear yard setbacks. The required landscape buffers along the west perimeter and portions of the north, south and east perimeter are not being provided. In addition, landscape exceptions are needed in the parking lot in order for the site to meet parking requirements. As the site cannot be built out as proposed without the approval of self-imposed waivers, exceptions and a variance, staff recommends denial, with conditions if approved.

ISSUES

- A Variance is needed to allow a zero-foot rear yard setback where 20 feet is required and a one-foot side yard setback where 10 feet is required for Building B.
- A Waiver of Title 19.08 perimeter landscape requirements is needed to allow a three-foot buffer along the west property line where eight feet is required and a four-foot buffer along a portion of the south property line where 15 feet is required. A waiver is not needed along the north property line if the requested setback variance is approved, and there is otherwise no perimeter buffer requirement adjacent to the alley.
- An Exception of Title 19.08.110 is required to allow four parking lot trees in islands and at ends of new parking rows where 13 are required.
- Remapping will be required to consolidate four existing lots so that the minimum lot width across the site can be met.
- The existing trash enclosure may remain as a nonconforming structure; however, it is in disrepair and must be walled, gated and roofed in conformance to Title 19.08 requirements.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/21/58	The Board of City Commissioners approved a Rezoning (Z-0046-56) from R-4 (Apartment Residence) to C-1 (Limited Commercial) for property fronting on both sides of Charleston Boulevard between 15th and Fremont Streets. The Planning Commission recommended approval.
06/27/68	The Board of Zoning Adjustment denied a request for a Variance (V-0010-68) to allow a 300 square-foot freestanding sign where 100 square feet is allowed at 1625 East Charleston Boulevard.
09/10/13	The Planning Commission voted to abey these items (VAR-50418 and SDR-50417) to the 10/08/13 Planning Commission meeting at the applicant's request.

<i>Most Recent Change of Ownership</i>	
06/13/13	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
1968	The existing restaurant on this site was constructed.

<i>Pre-Application Meeting</i>	
07/17/13	Submittal requirements for Variance and Site Development Plan Review applications were discussed with the applicant. Remapping of the site will be required to consolidate the existing lots. Uses in the proposed building cannot be more intense than for retail, or a future variance will be required.

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

<i>Field Check</i>	
08/01/13	The site contains an existing restaurant with a single drive-through lane that is not in operation. A tall freestanding sign is located along the Charleston Boulevard frontage. The site abuts an alley and contains no landscaping except for a narrow strip along Charleston Boulevard. A three-foot block wall with lattice fencing above is located along the east property line.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.64

<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>
Subject Property	Restaurant with Drive Through	C (Commercial)	C-1 (Limited Commercial)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	General Retail	C (Commercial)	C-1 (Limited Commercial)
	Office, Other Than Listed		
	Check Cashing Service, Limited		
	Undeveloped		
East	Multi-Family Residential	C (Commercial)	C-1 (Limited Commercial)
West	Office, Other Than Listed	C (Commercial)	C-1 (Limited Commercial)

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

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DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	N/A	28,080 SF	N/A
Min. Lot Width	100 Feet	216 Feet	Y
Min. Setbacks			
• Front	10 Feet	16 Feet	Y
• Side	10 Feet	1 Foot	N (90%)
• Rear	20 Feet	0 Feet	N (100%)
Max. Lot Coverage	50 %	15 %	Y
Max. Building Height	N/A	21 Feet (T.O. parapet)	N/A
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Existing enclosure is damaged	N
Mech. Equipment	Screened	Parapet screened	Y

Pursuant to Title 19.08.040, the following standards apply:

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	15-foot height at rear setback	15-foot height at 20 feet from protected property (zero-foot setback)	Y
Adjacent development matching setback	15 feet	20 feet	Y
Trash Enclosure	50 feet from residential	20 feet*	Y

*The existing trash enclosure is legally nonconforming per approved building permit.

Pursuant to Title 19.08, the following standards apply:

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	0 Trees	0 Trees	Y
• South	1 Tree / 20 Linear Feet	7 Trees	10 Trees	Y
• East	1 Tree / 30 Linear Feet	1 Tree	1 Tree	Y
• West	1 Tree / 30 Linear Feet	4 Trees	4 Trees	Y
TOTAL PERIMETER TREES		12 Trees	15 Trees	Y
Parking Area Trees	1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces	13 Trees	4 Trees	N

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LANDSCAPE BUFFER WIDTHS			
Min. Zone Width			
• North	0 Feet	0 Feet	Y
• South	15 Feet	4 Feet	N
• East	8 Feet	0 Feet	N
• West	8 Feet	3 Feet	N
Wall Height	6 to 8 Feet Adjacent to Residential	No new walls proposed	N/A

<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>
Charleston Boulevard	Primary Arterial	Master Plan of Streets and Highways Map	102	Y

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail (proposed)	2,450 SF	1 space per 175 SF GFA	14				
Restaurant (existing)	1,850 SF (350 SF seating/ waiting area)	1 space per 50 SF seating and waiting, plus 1 space per 200 SF remaining GFA	15				
TOTAL SPACES REQUIRED			29		33		Y
Regular and Handicap Spaces Required			27	2	31	2	Y
Loading Spaces	1,850 SF	Less than 10,000 SF	1		1		Y

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<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
8-foot perimeter landscape buffer along the west property line	3-foot buffer	Denial
15-foot perimeter landscape buffer along the south property line	4-foot buffer	Denial

<i>Exceptions</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
24-inch box shade trees in islands per six spaces (2 trees required)	Zero trees in islands	Denial
24-inch box shade trees in planters at the ends of each parking row (11 trees required)	4 palm trees at ends of parking rows	Denial

ANALYSIS

These items were abeyed from the September 10, 2013 Planning Commission meeting to allow the applicant to revise the site plan. A new site plan was submitted that includes a new Restaurant and Drive Through to replace the existing restaurant that was not part of the original request. Additional landscaping is provided along the south, west and east perimeter, and parking lot trees were added adjacent to the rear alley.

The site's development is proposed within the context of a C-1 (Limited Commercial) zoned property along a well-established commercial corridor. The types of uses proposed for the site, including restaurant, office and retail uses, are appropriate for this site. However, the amount of parking provided only marginally exceeds the minimum for the existing restaurant and retail uses, creating the potential need for a variance if uses become more intense in the future.

The placement of the building as proposed allows for the greatest amount of parking and most logical path of site circulation given the location of the existing restaurant, but it also results in the need for a variance, a waiver and two exceptions as shown in the tables above. The hardship in this case is the central location of the existing building. Because movement or removal of the existing building would allow for the site to be redesigned in conformance with current Title 19 commercial development standards, the current proposal is not appropriate and staff recommends denial.

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If approved, the site will need to be remapped to consolidate the four narrow lots that make up the site prior to the issuance of any building permits for construction of the new building. In addition, the existing trash enclosure is damaged and shall be brought up to current code standards with respect to design.

FINDINGS (VAR-50418)

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 to decrease the setbacks for a new building. Redesign of the site 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.

FINDINGS (SDR-50417)

In order to approve a Site Development Plan application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

- 1. The proposed development is compatible with adjacent development and development in the area;**

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The proposed restaurant and commercial building are appropriate for this area, which is located along a Primary Arterial roadway with similar uses. However, the site cannot legally accommodate placement of both buildings as proposed. Buildings on adjacent properties also do not meet current setback requirements, but this should not be a determinative factor in allowing reduced setbacks on the subject property.

2.The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;

The proposed development does not meet Title 19 setback and landscaping requirements. The existing trash enclosure may remain in its current location but must be upgraded to meet design standards. Approval of the associated setback variance is required for the development to meet residential adjacency standards.

3.Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;

Access to the site is provided by two existing driveways from Charleston Boulevard, a Primary Arterial. Secondary access is provided from the rear alley. The drive through is accessed from the front of the property near the east driveway. These points of access are acceptable and will not negatively impact traffic movement on the adjacent streets and alleyways.

4.Building and landscape materials are appropriate for the area and for the City;

The building materials proposed for the restaurant and commercial buildings are typical of other such buildings in the area. Landscape materials are drought-tolerant and appropriate for use as buffers, but are provided in insufficient quantities.

5.Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

The proposed commercial building contains architectural design elements such as colored windows, cornices and metal awnings to provide visual interest. The elevations are designed to eliminate windows on the sides in which the setbacks are requested to be reduced. As such they are appropriate for this area. The proposed restaurant also adds popouts in addition to the above design elements.

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6.Appropriate measures are taken to secure and protect the public health, safety and general welfare.

New development is subject to building permit review and inspection, thereby protecting the public health, safety and general welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 39

NOTICES MAILED 323

APPROVALS 2

PROTESTS 0