



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: JULY 8, 2014

DEPARTMENT: PLANNING

ITEM DESCRIPTION: ABEYANCE - APPLICANT/OWNER: E S M I PROPERTIES, LLC

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-53923	Staff recommends DENIAL, if approved subject to conditions:	
VAR-53924	Staff recommends DENIAL, if approved subject to conditions:	VAR-53923
SDR-53925	Staff recommends DENIAL, if approved subject to conditions:	VAR-53923 VAR-53924

**** CONDITIONS ****

VAR-53923 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-53924) and Site Development Plan Review (SDR-53925) 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.

VAR-53924 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-53923) and Site Development Plan Review (SDR-53925) 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.

Public Works

6. Prior to the issuance of a Certificate of Occupancy for this site, sign a Covenant Running with Land Agreement for the possible installation of half-street improvements (including curb and gutter, sidewalks, street lighting, permanent paving and possibly fire hydrants) on Ricky Road adjacent to this site. The Covenant agreement must be recorded with the County Recorder and a copy of the recorded document must be provided to the City prior to the issuance of building permits for this site.

SDR-53925 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-53923) and Variance (VAR-53924) 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.

Conditions Page Three

July 8, 2014 - Planning Commission Meeting

3. All development shall be in conformance with the site plan, landscape plan, and building elevations, date stamped 04/28/14, except as amended by conditions herein.
4. A Waiver from Title 19.08.080 is hereby approved, to allow no perimeter landscape buffers where a 15-foot landscape perimeter buffer along the south side and an eight-foot buffer along the east, north and west perimeters is required.
5. An Exception from Title 19.08.110 is hereby approved, to allow one 24-inch box tree and no shrubs for parking lot landscaping where three 24-inch box trees and 15 shrubs is required.
6. 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.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
8. 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.
9. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

10. In accordance with code requirements of Title 19.02.130.a, construct all incomplete half-street improvements on Ricky Road adjacent to this site concurrent with development of this site as required by the Department of Public Works. All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site. This condition will not be enforced if a Variance request such as VAR-53924 is approved to defer the installation of off-site improvements.
11. The applicant shall connect to public sewer and abandon the existing individual sewage disposal system according to Southern Nevada Health District (SNHD) regulations prior to issuance of a Certificate of Occupancy of this site, unless otherwise allowed by both the City Engineer and SNHD.

Conditions Page Four

July 8, 2014 - Planning Commission Meeting

12. Landscape and maintain all unimproved rights-of-way, if any, adjacent to this site. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.

Staff Report Page One**July 8, 2014 - Planning Commission Meeting****** STAFF REPORT ******PROJECT DESCRIPTION**

The applicant recently purchased the property at 5252 Ricky Road, zoned C-2 (General Commercial), to relocate their growing business. However, the previous owner failed to notify the new owners that the official change of land use from residential to commercial was never obtained, resulting in a non-conforming residential property. The owners are proceeding with obtaining the commercial land use changes, but would like to keep the property “as is” resulting in the need for two Variances, a Waiver and an Exception. Staff recommends denial. If denied, the property would remain as a non-conforming residential use and a business license could not be issued for a commercial business.

ISSUES

- A Variance is required to allow two parking spaces where nine are required and to allow a parking lot to not have a solid surface. Staff does not support this request as it is a self-imposed hardship.
- A Variance is required to allow none of the required roadway improvements for a 60-foot Minor Collector Street to be installed. Staff does not support this request as it is a self-imposed hardship and require the City to incur future costs.
- A Waiver is required to allow no perimeter landscape buffers, where a 15-foot wide is required on the south and eight-foot wide is required on the east, north and west perimeters. Staff does not support this request.
- An Exception is required to allow one 24-inch box tree and no shrubs for parking lot landscaping, where three 24-inch box trees and 15 shrubs is required. Staff does not support this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
05/12/64	The Las Vegas Board of Commissioners approved an Annexation (A-0002-64) of 5252 Ricky Road as part of a larger annexation.
03/13/86	The Planning Commission approved an Administrative Variance (AV-0001-86) for an addition to an existing residential home at 5252 Ricky Road.

Staff Report Page Two

July 8, 2014 - Planning Commission Meeting

<i>Most Recent Change of Ownership</i>	
05/15/13	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
02/18/14	Building and Safety processed an application (#254525) for a Tenant Improvement for a Certificate of Occupancy at 5252 Ricky Road. This case is on hold pending land use approvals.

<i>Pre-Application Meeting</i>	
04/24/14	Staff met with the owner/applicant and reviewed the requirements to bring the property up to current commercial standards. It was determined that a Variance for parking and one for Complete Street Standards, as well as a Site Development Plan Review with Waivers of all Landscape Buffers and an Exception would be required.

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

<i>Field Check</i>	
05/01/14	Staff visited the site and found a business in operation. There were no off-site improvements. The entire front of the parcel was being used as a parking lot that did not have a solid surface. There was no landscape buffers and only limited parking lot landscaping.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.85

<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	Single Family, Detached	GC (General Commercial)	C-2 (General Commercial)
North	Church	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Undeveloped	GC (General Commercial)	C-2 (General Commercial)
East	Single Family, Detached	SC (Service Commercial)	N-S (Neighborhood Service)
West	Auto Repair, Major	GC (General Commercial)	C-2 (General Commercial)

Staff Report Page Three

July 8, 2014 - Planning Commission Meeting

<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>
A-O (Airport Overlay) District 70 Feet	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
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 Title 19.08.080, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks			
• Front	10 Feet	43 Feet	Y
• Side	10 Feet	31 Feet	Y
• Corner	10 Feet	N/A	N/A
• Rear	20 Feet	232 Feet	Y
Max. Lot Coverage	50 %	7 %	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Screened and Gated	N
Mech. Equipment	Screened	Screened	Y

Pursuant to Title 19.08.030 and 19.08.110, the following standards apply:

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	7 Trees	0 Trees	N
• South	1 Tree / 30 Linear Feet	3 Trees	0 Trees	N
• East	1 Tree / 20 Linear Feet	17 Trees	1 Trees	N
• West	1 Tree / 30 Linear Feet	12 Trees	0 Trees	N
TOTAL PERIMETER TREES		39 Trees	1 Trees	N
Parking Area Trees	1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces	3 Trees	3 Trees	Y

Staff Report Page Four

July 8, 2014 - Planning Commission Meeting

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
LANDSCAPE BUFFER WIDTHS				
Min. Zone Width				
• North	8 Feet		0 Feet	N
• South	15 Feet		0 Feet	N
• East	8 Feet		0 Feet	N
• West	8 Feet		0 Feet	N
Wall Height	6 to 8 Feet Adjacent to Residential		6 Feet	Y

<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>
Ricky Road	Minor Collector Street	Planned Streets and Highways	60	Y

<i>Streetscape Standards</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
60' Minor Collector Street	18" curb and gutter, five-foot wide sidewalk and amenity zone as well as half-street improvements.	None	N

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

<i>Parking Requirement</i>						
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Base Parking Requirement</i>	<i>Provided</i>		<i>Compliance</i>	
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>	
			Regular	Handi-capped	Regular	Handi-capped
Building Maintenance Service and Sales	2,450 SF	1 space per 300 SF	9			
TOTAL SPACES REQUIRED			8		2	N
Regular and Handicap Spaces Required			1	1	1	N

Staff Report Page Five

July 8, 2014 - Planning Commission Meeting

<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
To provide a 15-foot landscape perimeter buffer along the south side and an eight-foot buffer along the east, north and west perimeters.	To provide no landscape perimeter buffers.	Denial

<i>Exceptions</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
To provide three 24-inch box trees and 15, five-gallon shrubs for the parking lot landscaping.	To provide one tree and no shrubs for the parking lot landscaping.	Denial

ANALYSIS

The owners of the property at 5252 Ricky Road are requesting to convert an existing non-conforming residential use into a commercial use on property that has been zoned C-2 (General Commercial) since it was annexed into the City in 1964. Since that time, the property has been used as a residence and was never officially converted to a commercial use. The owners believed that when they purchased the commercially zoned property, that they could operate their existing business there as the property currently exists. However, when they attempted to transfer their business license to this location, staff informed them that the property would have to be converted to a commercial use and brought up-to-date under the current commercial standards. These standards are extensive and the owners are requesting two variances, waivers and exceptions to be permitted to use the property in its current condition without the required improvements.

One Variance is to allow two official parking spaces, where nine are required and to allow a parking lot to not have a solid “paved” surface. There is ample room to allow for a code compliant parking lot to be installed, but the owner does not want to spend the funds to do it.

The second Variance would allow the owners to avoid the off-site improvements of installing curb, gutters, streetlights, sidewalks and half-street improvements that upgrading to a commercial use requires. If this Variance is approved, the cost associated with these improvements would eventually be incurred by the City. Public Works Department staff had the following comment, “This Variance request is related to a Site Development Review SDR-53925. The adjacent parcel to the west (138-12-710-055) constructed the required half street improvements in 2004 as required by SD-07-02. Staff would have recommended that half street improvements be constructed on this site for any Site Development Review application made after 2002. If improvements are not constructed by this applicant, the City will need to pay for these improvements in the future. Therefore, Public Works recommends **DENIAL** of this Variance.”

Staff Report Page Six
July 8, 2014 - Planning Commission Meeting

The required waiver is to allow no landscape buffers to be installed, where code requires them to be on all four perimeters. The exception would be for a reduced number of trees and shrubs in the parking lot area. Staff does not support these requests.

Staff understands the owners' frustration with purchasing a commercial property and not being able to use it as such without major improvements. However, the required improvements are the costs all developers incur and if these requests are granted, the City will incur these costs. As these improvements are standard code requirements and are in essence "self-imposed", staff recommends denial for all three applications.

FINDINGS (VAR-53923)

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 utilizing a residential property as a commercial property without making the required improvements to the site. An alternative is to install the required commercial improvements that 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.

Staff Report Page Seven

July 8, 2014 - Planning Commission Meeting

FINDINGS (VAR-53924)

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:

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by utilizing a residential property as a commercial property without making the required improvements to the site. An alternative is to install the required commercial improvements that 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-53925)

In order to approve a Site Development Plan Review 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;

A commercial use on this property is compatible with adjacent developments.

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;

Staff Report Page Eight
July 8, 2014 - Planning Commission Meeting

This project is not consistent with Title 19, as evidences by the requested Variances, Waivers and Exceptions.

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

Access to the site is off Ricky Road, a 60-wide Minor Collector Street that is adequate in size to meet the needs of the proposed commercial use.

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

No new building or landscaping is proposed for this project.

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;

No new building or landscaping is proposed for this project.

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

The proposed commercial use will be subject to inspections in order to protect the public health, safety and general welfare by City staff.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

11

NOTICES MAILED 135

APPROVALS 0

PROTESTS 1