



AGENDA MEMO - PLANNING

SPECIAL PLANNING COMMISSION MEETING DATE: AUGUST 2, 2016
DEPARTMENT: PLANNING
ITEM DESCRIPTION: APPLICANT: YESENIA FELIX RODRIGUEZ - OWNER:
MOJAVE DEVELOPMENT GROUP, GENERAL PARTNERSHIP

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-64863	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 1

NOTICES MAILED 76

APPROVALS 0

PROTESTS 0

**** CONDITIONS ****

VAR-64863 CONDITIONS

Planning

1. Conformance to the approved conditions for Special Use Permit (SUP-63922).
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant proposes to convert 499 square feet of back-of-house floor space to seating and waiting area in an existing 3,616 square-foot restaurant. The site, which contains an in-line retail and office building, is parking impaired. Per Title 19, the proposed conversion would trigger the need for seven additional parking spaces that are not proposed to be provided, and therefore a Variance is requested.

ISSUES

- The site is parking impaired. A Variance is required to allow no additional parking spaces where expansion of an existing Beer/Wine/Cooler On-Sale Establishment use in a restaurant requires seven additional parking spaces.

ANALYSIS

In May 2016, an approved Special Use Permit (SUP-56641) for a Beer/Wine/Cooler On-Sale Establishment use was amended (SUP-63922) to allow the expansion of use into the adjacent suite. Although the site had been deemed parking impaired, based on the configuration of the floor plan, the increased area resulted in a net zero increase in parking spaces at that time. The applicant now wishes to reconfigure the floor plan to allow for additional seating and waiting area in the newly expanded area of the restaurant. The existing seating and waiting area was 1,172 square feet; with the proposed expansion, that area would increase to 1,671 square feet. The additional area would be converted from the existing back-of-house. Per Title 19.18.030, the net 499 square-foot increase in seating and waiting area requires an additional seven parking spaces to be provided onsite that the property owner cannot provide. The increased number of required spaces will not result in the need for an additional handicap-accessible space, as the total parking demand will remain below the 51-space threshold.

As the hardship in this case is self-created and there is no unique circumstance with the property that would warrant relief from code requirements, staff recommends denial of the variance request. If denied, the Beer/Wine/Cooler On-Sale business license for the expanded area could not be approved for this floor configuration.

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FINDINGS (VAR-64863)

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 expanding the seating area of a restaurant without providing the additional parking spaces that it generates. Consolidation of lots may 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.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/19/64	The Board of Commissioners approved a Rezoning (Z-0066-64) from C-1 (Limited Commercial) to M (Industrial) on property generally located at the northwest corner of Charleston Boulevard and Mojave Road.
12/28/82	The Planning Commission approved a Plot Plan Review [Z-66-64(32)] for an existing 13,319 square-foot commercial building on the west side of Mojave Road between Contract Avenue and Builders Avenue to exercise the Resolution of Intent to the M (Industrial) zoning district. Staff recommended approval.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
01/21/15	The City Council approved a Special Use Permit (SUP-56641) for a proposed 2,062 square-foot Beer/Wine/Cooler On-Sale Establishment within an existing restaurant with a Waiver to allow a zero-foot distance separation from a House of Worship use where 400 feet is required at 23 North Mojave Road, Suite D. The Planning Commission had no recommendation and staff recommended denial.
05/10/16	The Planning Commission approved a Major Amendment (SUP-63922) of an approved Special Use Permit (SUP-56641) for a proposed 1,650 square-foot expansion to an existing 2,062 square-foot Beer/Wine/Cooler On-Sale Establishment within an existing restaurant at 23 North Mojave Road, Suite D. Staff recommended approval.
07/12/16	Due to a notification error this item was not acted upon as a part of the 07/12/16 Planning Commission meeting and has been scheduled for a Special Planning Commission meeting date.

<i>Most Recent Change of Ownership</i>	
11/05/79	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
1978	The building on this site was constructed.
Pre-1991	A business license (S14-00250) was issued for a sporting goods retail store at 31 North Mojave Road, Suite #110. The license remains active.
09/18/96	A business license (G50-05369) was issued for a general retail store at 31 North Mojave Road, Suite #120. The license remains active.
02/18/97	A building permit (#97003359) was issued for a wall sign at 23 North Mojave Road. The permit received a final inspection on 03/21/97.
04/25/13	A building permit (233803) was issued for a tenant improvement for a Church/House of Worship at 27 North Mojave Road. A final inspection was completed 07/24/13.
08/21/14	A business license (G62-05852) was issued for a restaurant use at 23 North Mojave Road, Suite D. The license remains active.
02/03/15	A building permit (278883) was issued for two wall signs at 23 North Mojave Road, Suite D. A final inspection was completed 06/05/15.
03/18/15	A business license (L63-00088) was issued for a Beer/Wine/Cooler On-Sale Establishment within a restaurant at 23 North Mojave Road, Suite D. The license remains active.
03/29/16	A business license (G64-01810) was issued for an open air vendor (hot dog cart) at 23 North Mojave Road. The license remains active.

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<i>Pre-Application Meeting</i>	
05/26/16	The applicant and staff discussed application submittal requirements for a variance. The applicant was informed that the site was parking impaired and additional seating area would increase the parking requirement of the site.

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

<i>Field Check</i>	
06/02/16	The site contains an existing in-line retail building with restaurant and office tenants. The restaurant exterior is decorated with pennants. A freestanding sign advertising the restaurant has one sign panel missing, with loose wiring visible.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.49

<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	LI/R (Light Industry/Research)	M (Industrial)
	Beer/Wine/Cooler On-Sale Establishment		
	Office, Other Than Listed		
	Auto Repair Garage, Minor		
North	Church/House of Worship	LI/R (Light Industry/Research)	M (Industrial)
	General Retail Store		
South	Church/House of Worship	LI/R (Light Industry/Research)	M (Industrial)
	General Retail Store		
	Bailbond Service		

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<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>	Office, Other Than Listed
				Bailbond Service
				Warehouse
West		Auto Repair Garage, Minor	LI/R (Light Industry/Research)	M (Industrial)

Master Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Purpose and Overlay Districts	Compliance
No Applicable Special Purpose or Overlay Districts	N/A
Other Plans or Special Requirements	Compliance
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 19.12 and 19.18, the following parking standards apply:

Parking Impaired Development Parking Requirement – Restaurant Expansion							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required Parking Ratio</i>	<i>Required Parking</i>		<i>Provided Parking</i>		<i>Compliance</i>
			Regular	Handi-capped	Regular	Handi-capped	
Proposed restaurant expansion	499 SF (proposed to be expanded)	1 space per 50 SF seating/ waiting	10				
	499 SF (to be removed from existing)	1 space per 200 SF remaining GFA	-3				
TOTAL ADDITIONAL SPACES REQUIRED			7		0		N*

Regular and Handicap Spaces Required	7	0	0	0	N*
Percent Deviation	100%				

*The subject site is parking impaired. Pursuant to Title 19.18.030, only the additional spaces generated as a result of a change of use are required.

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

Parking Requirement - Site							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required Parking Ratio</i>	<i>Required Parking</i>		<i>Provided Parking</i>		<i>Compliance</i>
			Regular	Handi-capped	Regular	Handi-capped	
			Office, Other Than Listed	1,200 SF	1 space per 300 SF GFA	6	
Restaurant (3616 SF)	1,172 SF	1 space per 50 SF seating/ waiting	24				
	+499 SF (new)		10				
	2,444 SF	1 space per 200 SF remaining GFA	13				
	-499 SF (removed)		-3				
TOTAL SPACES REQUIRED			50		33		N*
Regular and Handicap Spaces Required			49	1	32	1	N*

*The subject site is parking impaired. Pursuant to Title 19.18.030, only the additional spaces generated as a result of a change of use are required.