



AGENDA MEMO - PLANNING

SPECIAL PLANNING COMMISSION MEETING DATE: AUGUST 2, 2016

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: NIDA QUITORIO AND BUDDY N. QUITORIO

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
ZON-64861	Staff recommends DENIAL.	
VAR-64862	Staff recommends DENIAL, if approved subject to conditions:	ZON-64861
VAR-64864	Staff recommends DENIAL, if approved subject to conditions:	ZON-64861

** NOTIFICATION **

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

5

NOTICES MAILED

186 - VAR-64864

186 - ZON-64861 and VAR-64862

APPROVALS

0 - VAR-64864

0 - ZON-64861 and VAR-64862

PROTESTS

0 - VAR-64864

0 - ZON-64861 and VAR-64862

**** CONDITIONS ****

VAR-64862 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-64861) and Variance (VAR-64864) 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-64864 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-64861) and Variance (VAR-64862) 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.

Staff Report Page One

August 2, 2016 - Special Planning Commission Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request to Rezone property located at 519 South 8th Street from P-O (Professional Office) to R-3 (Medium Density Residential). The applicant is also requesting a Variance to allow a three-foot side yard setback where five-feet is required, and a three-foot rear yard setback where twenty feet is required for an existing dwelling unit. In addition, the applicant is requesting a Variance for a zero-foot side setback for a storage shed, where five feet is required; and to allow for three parking spaces where five parking spaces are required for the existing multi-family units.

ISSUES

- A rezoning application is required to retain three dwelling units on the subject site.
- A Variance is required to not provide for additional parking for the third dwelling unit.
- Variances are required to allow for reduced side and rear yard setbacks for a third Multi-Family dwelling unit that was constructed without permits, and for a zero-foot side yard setback for an existing storage shed that was constructed on the property line.

ANALYSIS

On October 23, 1975, the subject site was granted a Variance (V-63-75) that permitted two existing dwelling units where only one dwelling unit is permitted in a R-1 (Single Family Residential) zoning district, and permitted said building to have a nonconforming front yard setback and no side yard setback on the north side where a five-foot side yard setback is required. Also, the subject site was granted a parking Variance under the same action that allowed for three parking spaces where four parking spaces were required for the two units. Condition Number One of Variance (V-63-75) required “all necessary permits and inspections shall be obtained as required by the Department of Building and Safety.” Staff was unable to locate any building permits in relation to this action. The final action (approval) letter for Variance (V-63-75) also noted that, “an approved Variance must be exercised within six months or it becomes null and void, unless a request for an Extension of Time is filed and approved by the Board within a six-month time limit.” No Extension of Time was filed for this Variance.

Until 1996, the City strongly encouraged property owners in the vicinity of what was then Las Vegas High School to apply for use Variances, instead of Rezoning the property for any proposed office development in the area. In 1997, Title 19 was revised and use Variances were specifically prohibited. Subsequently, any office development within this area was now required to Rezone the subject site for office use.

Staff Report Page Two

August 2, 2016 - Special Planning Commission Meeting

Within the area generally located south of Clark Avenue and east of 6th Street, a review of City records indicated there were 35 properties which had a use Variance that allowed office uses on property zoned R-1 (Low Density Residential). In an effort to bring the zoning designation of these properties and others into conformance with the existing Downtown Mixed Use General Plan Land Use Designation, staff initiated Rezoning applications for the subject sites in the area under authority granted by Title 19, the City Council may change the Zoning designation of property within the City:

“Whenever public necessity, safety and general welfare may require, the City Council may, upon recommendation by the Planning Commission, rezone any parcel or area of land within the City from one zoning district to another when the rezoning will conform to the General Plan and the requirements of Subsection (K) of this Section.”

On November 16, 2011, the City Council approved a request for a Rezoning from R-1 (Single Family Residential) to P-O (Professional Office) on 31 properties within the area generally located south of Clark Avenue and east of 6th Street, including the subject site, 519 South 8th Street (APN 139-34-810-054). Staff and the Planning Commission recommended approval of this action. Once this Rezoning action was approved, the subject site became a Legal, Nonconforming structure and land use within the P-O (Professional Office) zoning district. Per Title 19.14.010:

“Within the zoning districts established by this Title, there may exist lots, structures and uses of land which were lawful before the effective date of this Title or an amendment thereto and which would be prohibited, regulated, or restricted under the terms of this Title. It is generally the intent of this Title to permit these nonconformities to continue until they are removed or abandoned, or until such earlier time as they are ordered to be removed, but not to encourage their survival. It is further the intent of this Title, that such nonconforming lots, buildings, or uses shall not be enlarged upon, expanded or extended, except as otherwise specifically provided, and that such nonconforming lots, buildings or uses may not be used as justification for adding other lots, buildings or uses prohibited elsewhere in the same zoning district. Except as otherwise provided, nonconforming uses are declared to be incompatible with permitted uses in the same zoning districts.”

On January 28, 2015 Code Enforcement received a complaint (#150020) in regards to the subject site, with the complainant reporting of multiple unlicensed residential units being leased on a “cash” basis, with the front portion of the units being turned into a “farm house.” Upon investigation by Code Enforcement on February 4, 2015, staff was able to make contact with the property manager whom was living and operating a store front (Feathers and Spikes Pet Store) from the front rental unit without a City business license. During that inspection, the property

Staff Report Page Three

August 2, 2016 - Special Planning Commission Meeting

manager also permitted the Code Enforcement Officer to observe the rear unit, which had a bathroom, kitchen, and living room. The property manager informed the Code Enforcement officer of the remaining two units, but was unable to grant access since the tenants were not available at that time. Code Enforcement also observed a vehicle parked on the gravel in the front yard. Code Enforcement issued a Violation Notice for the 1) illegal business; 2) the zoning violation; and 3) residential vehicle storage. Subsequent follow-up inspections were performed by Code Enforcement on February 25, 2015; June 2, 2015; June 23, 2015; August 11, 2015; February 3, 2016; and March 8, 2016. On February 2, 2016 a *Nuisance Notice and Order to Comply* was issued by the City requiring the property owner to meet with the Planning Department by March 1, 2016 to disclose intentions of property. A pre-application meeting was held with staff on May 10, 2016. Code Enforcement Case Number (#150020) remains open pending the outcome of these applications.

Since building permits were not obtained for the third or fourth dwelling units, staff is unable to accurately report when these structures were constructed; and with the storage shed being less than 200 square feet, a building permit was not required for this particular structure, but it still required to adhere to the minimum setback requirements for the P-O (Professional Office) zoning district.

Since the issuance of a Correction Notice from Code Enforcement, the illegal storefront (pet store) has since been shut down, and the number of dwelling units reduced to three. As of the last inspection performed on March 8, 2016, units one and three are occupied, and unit two is vacant. The applicant is before this Commission requesting a Rezoning from the P-O (Professional Office) zoning district to the R-3 (Medium Density Residential) zoning district in order to maintain the third dwelling unit; a Variance to allow for three parking spaces where five parking spaces are required to accommodate the parking requirements for the third dwelling unit; and a Variance to allow for a three-foot side and rear yard setback where five and twenty feet are required respectively. The setback Variance request is for the third dwelling unit that was constructed without building permits.

If these applications are approved, the applicant will be required to bring the third dwelling unit into compliance with current building codes and obtain all necessary building permits for the third dwelling unit, ultimately resulting in a certificate of occupancy for the third dwelling unit (studio apartment). If this application is denied, the applicant will be required remove the third dwelling unit, and conform to the original Conditions of Approval set forth by Variance (V-63-75) and remain a Legal, Nonconforming structure and land use in the P-O (Professional Office) zoning district.

FINDINGS (ZON-64861)

In order to approve a Rezoning application, pursuant to Title 19.16.090(L), the Planning Commission or City Council must affirm the following:

Staff Report Page Four

August 2, 2016 - Special Planning Commission Meeting

1.The proposal conforms to the General Plan.

The current General Plan designation of MXU (Mixed-Use) supports both the proposed R-3 (Medium Density Residential) zoning district and the existing P-O (Professional Office) zoning district.

2.The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.

The subject site is currently surrounded by professional offices, with the last R-1 (Single Family Residential) zoned property on the block adjacent to the north of the subject site. Rezoning the subject site will create a spot zoning situation, which by definition is the action of rezoning a lot or parcel of land in order to benefit an owner for a use incompatible with surrounding land uses and does not further the General Plan. The existing structures are not compatible with the surrounding land uses and zoning districts, as demonstrated by the Code Violations and Variance applications.

3.Growth and development factors in the community indicate the need for or appropriateness of the rezoning.

The rezoning application is inappropriate for the community as it would create spot zoning which only benefits the property owner and does not further the General Plan.

4.Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.

8th Street is a Major Collector as defined by the Master Plan of Streets and Highways and is adequate to meet the needs of the proposed zoning district.

FINDINGS (VAR-64862)

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

Staff Report Page Five

August 2, 2016 - Special Planning Commission Meeting

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 constructing a third dwelling unit without permits and within the required setbacks. In addition, the applicant constructed a storage shed on the side yard property line. If the applicant had inquired and/or applied for the necessary building permits for the third dwelling unit and the storage shed, the applicant would have been made aware of the Title 19 requirements for constructing a third dwelling unit and a storage shed. 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 (VAR-64864)

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 constructing a third dwelling unit without a building

Staff Report Page Six

August 2, 2016 - Special Planning Commission Meeting

permit, creating the need for additional necessary parking the existing site is unable to accommodate. Once again, by inquiring and/or applying for the necessary building permits for a third multi-family dwelling unit would have allowed for the applicant to be aware of the requirements set forth by Title 19. 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>	
10/23/75	The Board of Zoning Adjustment approved a request for a Variance (V-63-75) to allow two existing dwelling units where only one dwelling unit is permitted and said building has a nonconforming front yard setback and no side yard setback on the north side where a 5-foot side yard setback is required; and to allow 3 parking spaces where 4 parking spaces are required on property located at 519 South 8 th Street.
11/16/11	The City Council approved a request for a Rezoning from R-1 (Single Family Residential) to P-O (Professional Office) on 31 properties within the area generally located south of Clark Avenue and east of 6 th Street. Staff and the Planning Commission recommended approval.
01/28/15	Code Enforcement processed a complaint (#150020) for the living room being turned into a farm house with cages of birds and guinea pigs (operating pet shop without a license); multiple rental units on site that are not taken care of and are rented on a "cash" basis, and are operated without a license; pool is adjacent to one of the rental units and is not being properly maintained; property taxes are not being paid in accordance with the amount of rental units; appears to be a hoarding situation. Property owner is very abusive/aggressive and open carries a weapon, complainant advises to have LVMPD escort Code Enforcement for investigation. The case remains open pending the outcome of these applications.
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>	
09/19/02	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
10/15/03	A building permit (#3021979) was issued for a water heater replacement at 519 S. 8 th Street. The permit expired on 04/17/04.
07/17/08	A building permit (#120187) was issued for an HVAC replacement at 519 S. 8 th Street. The permit remains open.

Staff Report Page Seven

August 2, 2016 - Special Planning Commission Meeting

<i>Pre-Application Meeting</i>	
05/10/16	A pre-application conference was conducted by staff where the submittal requirements for a Rezoning application and multiple Variance applications were discussed.

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

<i>Field Check</i>	
06/02/16	Staff performed a routine field check where staff observed dead grasses and weeds growing within the front yard rock ground cover; two flag pole structures without flags in the front yard; small animal cages being stored on the south side of the front/side yard; a disabled vehicle with no license plates and debris surrounding the vehicle being stored in the rear yard area adjacent to the alleyway. In addition, the rear wall had incompatible block courses added and appeared to be structurally unsound with missing blocks, and electrical cords were observed leading from exterior light fixtures and a possible air conditioning unit.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.16

<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	Multi-Family Residential	MXU (Mixed Use)	P-O (Professional Office)
North	Single Family Residential	MXU (Mixed Use)	R-1 (Single Family Residential)
South	Office, Other Than Listed	MXU (Mixed Use)	P-R (Professional Office and Parking)
East	Office, Other Than Listed	MXU (Mixed Use)	P-R (Professional Office and Parking)
West	Office, Other Than Listed	MXU (Mixed Use)	P-O (Professional Office)

Staff Report Page Eight

August 2, 2016 - Special Planning Commission Meeting

Master Plan Areas	Compliance
Las Vegas High School Neighborhood District	Y
Special Purpose and Overlay Districts	Compliance
Live/Work Overlay District	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area – Downtown Redevelopment Area	N*
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

***Nonconforming uses:** The Agency is authorized to permit an existing use to remain in an existing building in good condition, which use does not conform to the provisions of this Plan, provided that such use is generally compatible with existing and proposed developments and uses in the Redevelopment Area, and abatement of such uses is not required by applicable City codes.

The Agency may authorize additions, alterations, repairs or other improvements in the Redevelopment Area for uses which do not conform to the provisions of this Plan where such improvements are within a portion of the Redevelopment area where, in the determination of the Agency, such improvements would be compatible with surrounding Redevelopment Area uses and development and are permitted under applicable City codes.

DEVELOPMENT STANDARDS

Pursuant to 19.08, the following standards apply for the multi-family dwelling unit:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6500 SF	6970 SF	Y
Min. Setbacks			
• Side	5 Feet	3 Feet	N*
• Rear	20 Feet	3 Feet	N**

*The applicant has requested a Variance to allow 3-foot side yard setback where five feet is required.

** The applicant has requested a Variance to allow 3-foot rear yard setback where 20 feet is required.

Existing Zoning	Permitted Density	Units Allowed
P-O (Professional Office)	N/A	N/A
Proposed Zoning	Permitted Density	Units Allowed
R-3 (Medium Density Residential)	13-50 Per Acre	2-8 Units
General Plan	Permitted Density	Units Allowed
MXU (Mixed-Use)	N/A	N/A

Staff Report Page Nine

August 2, 2016 - Special 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>
8 th Street	Major Collector	Master Plan of Streets and Highways	50	Y

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

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>	
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Multi-Family Residential	2 Bedroom	1.75	5				
Multi-Family Residential	1 Bedroom	1.25					
Multi-Family Residential	Studio	1.25					
TOTAL SPACES REQUIRED			5		3		N*
Regular and Handicap Spaces Required			4	1	3	0	N*
Percent Deviation			40%				

**The applicant has requested a Variance to allow for 3 parking spaces where 5 are required.*