

BOARD OF ZONING ADJUSTMENT

S.✓

MEETING OF
July 6, 1999

City of Las Vegas

AGENDA & MINUTES

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COUNCIL CHAMBERS • 400 EAST STEWART AVENUE

ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u> <u>COMMISSIONERS BRIEFING:</u> <u>PRESENT:</u> Elisa Del Prado - Vice Chair Byron Goynes Michael Mack Mark Solomon <u>EXCUSED:</u> Roberta Boyers - Chairperson <u>STAFF PRESENT:</u> Tim Chow - Planning & Development Dept. Susan Barton - Planning & Development Dept. David Petrovich - Planning & Development Dept. Doug Powell - Planning & Development Dept. Gary Reid - Public Works Steve George - City Attorney's Office Angela Crolli - City Clerk's Office	Vice-Chair Del Prado called the Briefing to order at 5:35 P.M. <u>Item No. A-2, V-34-99:</u> Staff received many calls requesting information on this item. Doug Powell explained that a new policy will be instituted for existing structures built without a building permit. Before the applicant can apply for a Variance for an existing structure they need to obtain a building permit and have the structure inspected by the Building Department. Deputy City Attorney Steve George noted that area residents requested that a number of conditions be added to this item. Mark Solomon replied that the conditions should be submitted to the City Clerk's Office and give staff a chance to review them to see if they are needed before the item goes before the City Council. Susan Barton indicated that the staff report should indicate 14,923 square footage instead of 49,440 for this application. <u>Item No. A-3, V-42-99:</u> Deputy City Attorney Steve George clarified that this item was approved at the last BZA meeting. However, due to an abstention by Michael Mack, it was determined that there was no quorum. <u>Item No. A-6, V-48-99:</u> Ms. Barton noted that the applicant might request this item be held in abeyance. However, staff has not yet received a required signed affidavit. <u>Item No. A-8, V-50-99:</u> Ms. Barton explained that the applicant requested this item be held in abeyance so that he can meet with the homeowners. <u>Item No. 10, V-52-99:</u> Planning staff received telephone calls from area residents concerned that this project might become an assisted care facility in the future.

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PLANNING AND DEVELOPMENT

ALL ITEMS ON THIS AGENDA ARE
SCHEDULED FOR ACTION UNLESS
SPECIFICALLY NOTED OTHERWISE

CALL TO ORDER

6:00 P.M. in the Council Chambers of the City
Hall, 400 East Stewart Avenue, Las Vegas,
Nevada.

ROLL CALL

Roberta S. Boyers - Excused
Elisa Del Prado - Present
Michael Mack - Present
Mark Solomon - Present
Byron A. Goynes - Present

ANNOUNCEMENTS

Satisfaction of Open Meeting Law.

All actions by the Board of Zoning Adjustment are
final (except items requiring a decision by the City
Council), unless an appeal, in writing, is filed with
the City Clerk or a review is requested by the City
Council within ten (10) days from the date of the
Board's decision.

NOTICE

This meeting has been properly noticed and
posted at the following locations:

Clark County Government Center, 500 S. Grand
Central Parkway
Senior Citizen Center, 450 East Bonanza Road
Clark County Courthouse, 200 E. Carson Avenue
Court Clerk's Office Bulletin Board, City Hall Plaza
City Hall Plaza, Special Outside Posting Bulletin
Board

MINUTES

Approval of the Minutes for the June 1, 1999
Board of Zoning Adjustment meeting

Vice-Chair Del Prado called the meeting to order at 6:00 PM.

Mr. Solomon led the audience in the Pledge.

STAFF PRESENT

Tim Chow, Director, Planning & Development
Doug Powell, Deputy Director, Planning & Development
David Petrovich, Planning Supervisor, Planning &
Development
Susan Barton, Planner II, Planning & Development
Tracey Thiros, Planning Technician, Planning & Development
Stephen George, Deputy City Attorney
Gary Reid, Civil Engineer, Public Works
Angela Crolli, Deputy City Clerk

(6:00)
1-1

Ms. Barton announced the Open Meeting Law requirements
had been met.

(6:03)
1-80

GOYNES

APPROVAL

UNANIMOUS with Boyers excused

(6:05)
1-58

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CONSENT ITEMS

Consent Items are considered routine by the Board of Zoning Adjustment and may be enacted by one motion. However, any item may be discussed if a Board member or applicant so desires.

RULES OF CONDUCT FOR PUBLIC HEARING ITEMS:

There may be items on this agenda for which a public hearing is scheduled. For the purposes of conducting the public hearing in an orderly manner, the Board of Zoning Adjustment has established the following rules of conduct:

1. When you hear your item being read, please come forward as soon as possible.
2. Begin your testimony by clearly stating your name and address.
3. Direct all comments and questions to the Chair, who is in charge of conducting the meeting. Do not engage the staff, the applicant, or the public in a dialogue. The Chair will direct them to respond as necessary.
4. Please avoid repeating testimony already provided and be brief and to the point. Spokespersons for groups are encouraged. Please return to your seat after your testimony. The Chair will close the public testimony if discussion becomes repetitious.
5. When the public hearing is closed, the Board will then begin discussion and have questions answered that were directed to the Chair. Applicants will be asked to be seated and will refrain from additional testimony at this time. Applicants may be asked to answer additional questions directed by the Chair. Additional questions or comments from the public will be discouraged due to the time constraints of the lengthy meetings.
6. The Chair will then determine the close of discussion and request a motion.

Vice-Chair Del Prado referred to the Rules of Conduct adopted by the Board of Zoning Adjustment for the meeting.

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PLANNING AND DEVELOPMENT

PUBLIC HEARING ITEMS:

ABEYANCE ITEM

SCD-4-99 - CLARK COUNTY SCHOOL
DISTRICT

Appeal of a Summerlin Certificate of Deviation on property located on Pavilion Center Drive, approximately 880 feet south of Sageberry Drive TO ALLOW 120 PROPOSED PARKING SPACES WHERE 224 PARKING SPACES ARE REQUIRED; AND TO ALLOW 5 HANDICAP PARKING SPACES WHERE 7 ARE REQUIRED IN CONJUNCTION WITH A PROPOSED MIDDLE SCHOOL, P-C (Planned Community) Zone, Ward 2 (Adamsen), APN: 137-26-801-001.

BZA NOTICES MAILED: 85

PROTESTS: 0

APPROVALS: 0

Staff Recommendation: APPROVAL OF 121 SPACES, subject to:

1. Prior to issuance of building permits, the site plan shall be revised to depict a minimum of 128 total parking spaces.
2. All development must be in conformance with the plot plans and elevations as amended by this Variance.
3. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.

MACK

APPROVAL subject to conditions
UNANIMOUS with Boyers excused

Susan Barton, Planning & Development, noted that this is a request to allow 121 parking spaces, inclusive of five handicapped spaces. This item was held in abeyance at the last Board of Zoning meeting so that the applicant could provide figures on the anticipated staffing of the proposed middle school. There would be 1,750 students, 15 administrative staff members and 68 teachers. An identical floor plan for the Molasky Middle School with 64 classrooms was approved by the Board of Zoning allowing 121 parking spaces where 210 spaces were required. At that time staff recommended approval of the request because it was intending to amend the Las Vegas Zoning Code to make the City's parking requirements for middle schools consistent with those of the American Planning Association, Clark County and the Clark County School District. Although the Code has not yet been amended, the parking space requirement was reduced from 3.5 spaces per classroom to 2 spaces per classrooms and then further reduced to match the prior action taken on Molasky Middle School.

Ms. Barton clarified that a correction in Condition No. 1 should reflect 121 parking spaces.

Dusty Dickens, Clark County School District, concurred with staff's recommendations.

No one appeared in opposition.

There was no discussion.

NOTE: A date will be set at the 7/26/99 City Council meeting for a public hearing to be held at the 8/4/99 City Council meeting.

(6:06 - 6:10)
1-184

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ABEYANCE ITEM

RENOTIFICATION - V-34-99 - ALSTATE
ENTERPRISES, INC.

A-2

Request for a Variance on property located at 1901 North Rancho Drive TO ALLOW THE REPLACEMENT OF AN EXISTING, 7,100 SQUARE FOOT, NON-CONFORMING USE (ERNIE'S CASINO AND TAVERN) WITH A PROPOSED 14,923 SQUARE FOOT, NON-CONFORMING USE (ERNIE'S CASINO AND TAVERN), AND TO TEMPORARILY ALLOW 122 PROPOSED PARKING SPACES WHERE 162 ARE THE MINIMUM REQUIRED, C-2 (General Commercial) Zone, Ward 4 (Brown), APN: 139-19-703-032.

BZA NOTICES MAILED: 221

PROTESTS: 11 (3 Letters, 6 Telephone, 2 at Meeting)

APPROVALS: 0

Staff Recommendation: DENIAL. If approved, subject to:

1. All development must be in conformance with the plot plans and elevations subsequently approved in accordance with this Variance.
2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.
3. Approval for the temporary reduction in parking from 162 to 122 total spaces shall six months after the issuance of a certificate of occupancy for the new structure.
4. The Variance approval is subject to the approval, and related conditions, of Special Use Permit U-49-99. If that Special Use Permit is not approved, this Variance shall be null and void.

SOLOMON

APPROVAL subject to conditions and adding the word "expire" between the words shall and six in Condition No. 3 and amending Condition No. 7 that staff shall work with the applicant to affect a timely change in the business location, the access and also the demolition plan -- UNANIMOUS with Boyers excused

NOTE: Subsequent to the meeting this item was moved to be heard at the 8/4/99 City Council meeting.

Susan Barton, Planning & Development, stated that this request is for a Variance to allow the relocation and expansion of an existing non-conforming use in the form of a new 14,923 square foot casino, tavern, and micro-brewery. The 49,440 square feet listed in the application is incorrect. The request is also to temporarily allow 122 parking spaces where 162 are required. The applicant is requesting this Variance in order to build a new facility on the same parcel of land as the existing casino and tavern known as Ernie's. On 6/24/99 the Planning Commission approved a Special Use Permit to allow the relocation and expansion of the existing Ernie's casino and tavern. That item will be heard by the City Council on 7/26/99.

The existing casino and tavern was constructed in 1965. At that time the Planning Department did not require commercial building setbacks or distance separation requirements. The operation also predates one of the two churches located within the 1,500 foot separation distance. Staff finds that the request for a temporary reduction in parking would not be detrimental to the health, safety, or general welfare of the public. Therefore, staff concurs with the applicant's request for a reduction in parking for a maximum of six months after the issuance of the Certificate of Occupancy for the new structure. However, staff cannot support the expansion of the non-conforming use.

The current use is legally non-conforming because the site does not conform to the distance separation requirements from two churches. Secondly, the site is not located within any City of Las Vegas Gaming Enterprise District. Thirdly, there is no Special Use Permit approval in effect for a casino on the site. The non-conforming use and structures portion of the Code allows lawfully pre-existing and structures to continue until removed or abandoned, but not to encourage their survival through enlargement or expansion of their non-conformities.

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ABEYANCE ITEM

RENOTIFICATION - V-34-99 - ALSTATE ENTERPRISES, INC.

5. The Department of Public Works requires that all site-related conditions of approval are complied with.

6. The applicant must submit for review an application for a Site Development Plan Review to the Planning and Development Department.

7. Effective upon the date of issuance of a Certificate of Occupancy on the new structure, all public access to the existing structure shall be terminated.

Staff finds that the Code is very specific in stating that non-conforming use of a building cannot be expanded if doing so requires structural changes to the building. The Variance process is not available to vary the minimum separation distance between uses. The applicant's rationale in seeking the Variance provides inadequate justification and relies heavily on a self-imposed hardship. Therefore, staff recommended denial.

Scott Nielson, 2411 W. Sahara Avenue, appeared on behalf of the applicant, Alstate Enterprises, Inc. and Wolf Wolzinger. The request for this Variance is appropriate because only through granting this Variance can this business be extended and improved. The uses that are proposed in the expansion are those that have been there since 1965. In order to continue these uses and improve this area, it is necessary to go forward with the plan that is being presented. Mr. Wolzinger is looking to construct a new building and to provide more food and beverage with the construction of the micro-brewery. The improvement of this entire commercial area would invite other commercial improvements. As far as the parking Variance is concerned, the intent is not to require a Variance for the overall parking.

Shary Bray, 3986 W. Spring Road, appeared in opposition of the Variance. However, if approved, she requested that a list of conditions be added.

Mr. Solomon explained that the conditions she submitted are detailed construction items. He directed that the list should be submitted to the City Clerk's Office so that they can be reviewed by the Planning Department. During briefing staff explained that some conditions might be requested, but had not had an opportunity to review them. These conditions should be considered during the review of the site plan during Planning Commission meeting. At this time only the Variances will be reviewed. However, both the Variances and site plan review will go before the City Council. A recommendation will be made by Planning staff whether or not all the conditions submitted can be included.

Ms. Bray noted that a meeting has been scheduled for July 13, 1999 for area residents to meet with Mr. Wolzinger's representatives to review these conditions. Vice-Chair Del Prado requested that the list be made part of the record and that she is confident that a compromise can be reached in order that this would be a good project for everyone concerned.

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<u>ABEYANCE ITEM</u>	
<u>RENOTIFICATION - V-34-99 - ALSTATE ENTERPRISES, INC.</u>	Victor Harlan, 1821 Willow Trail, resides about 600 feet from Ernie's Bar and the expansion would only increase the existing traffic problem in this area. The streets are about 50 feet wide and do not have sidewalks or gutters. He will be sending a petition from 50 property owners who oppose this expansion. They want to preserve their neighborhood as much as they can. John Bauchman, 6950 Rome Boulevard, also appeared on behalf of the applicant. He appreciates the residents' concerns and has tried to speak to them regarding these issues. Mr. Wolzinger believes the expansion will be in the neighborhood's best interest as well as his business since the Codes have changed. The building is non-conforming not only from the City Code standpoint, but also because of asbestos, access and landscaping. This new facility will be an asset and an improvement for the area. The access on Cypress Trail has been eliminated due to concerns from some the area residents. Mr. Bauchman added that the applicant is trying to improve traffic flow on Spring Road by eliminating one of the two accesses on Spring Road, specifically the one closest to the intersection. There will be an improved ingress and egress by creating two entrances on Rancho Drive. The parking plan exceeds the City's requirement with the caveat that for a period of six months a Variance is required in order to meet the Gaming Control Board's requirements. This request will enable simultaneous use while the license is transferred from one facility to the other and then when that structure is demolished, there would be a 40 parking space shortage. Once the construction and demolition begins, there would not be many people parking on the street. The parking requirement will exceed after the six month-period. He requested that Condition No. 7 be amended to read effective no later than six months from the date of issuance of a Certificate of Occupancy on the new structure, all public access to the existing structure shall be terminated.

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ABEYANCE ITEM

RENOTIFICATION - V-34-99 - ALSTATE
ENTERPRISES, INC.

Doug Powell, Deputy Director of Planning & Development, clarified that a letter from the Gaming Control Board stated that the use is required for both structures, but there was no time limit. Staff is concerned about the length of time that the existing structure might remain after the new structure is built. Since no time was specified, it was requested that the existing structure be torn down as soon as the new structure is occupied. Staff would like that tied to the issuance of the Occupancy Permit for the new structure regardless of when that is occupied. Deputy City Attorney Steve George added that it is absolutely necessary for that condition to exist on this application, otherwise this application could not even be before this Board.

Mr. Bauchman replied that the existing structure will be removed as soon it is possible. They want to make sure that the removal complies with the Nevada Gaming laws. He believes that both structures would have to operate simultaneously for a short period of time.

Mr. Solomon clarified that Mr. Powell's concern is that both the old and the new structure might be operating into the future. If this is the case, then it would not comply with the site plan. There has to be a reasonable amount of time for the business to go from the old to the new structure and a reasonable amount of time to have the old structure demolished. The applicant should probably determine what is a reasonable time and perhaps even bring that information to the City Council at the time the City Council will review both Planning Commission and Board of Zoning Adjustment's reports. Mr. Powell answered that the issue is not only whether or not the structure is demolished within a certain time period or the use of the structure, but also where the parking is needed for the new structure.

Deputy City Attorney Steve George added that the issue of gaming on this particular site needs to be taken into consideration. The City has followed what the state was willing to do on this, but an answer is not available as to the time limit the State requires. Mr. Nielson replied that the time limit is not reflected anywhere. However, it is their intention to remove that building as quickly as possible. A week would suffice for them. He concurred with Mr. Solomon's suggestion to bring this issue before the City Council.

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ABEYANCE ITEM

RENOTIFICATION - V-34-99 - ALSTATE
ENTERPRISES, INC.

Mr. Solomon recommended that Condition No. 7 be amended to read that staff will work with the applicant to affect a timely change in the business location, the access and also the demolition plan. It will be in the City's interest to know that the structure will be demolished. Once the timetable has been resolved, it should be presented to the City Council. Mr. Powell concurred with Mr. Solomon's recommendation.

Mr. Mack explained that the Special Use Permit was approved by the Planning Commission. He commented that Mr. Nielson is willing to meet with area residents to address the site plan review issues prior to the Planning Commission meeting.

Ms. Barton recommended that the word "expire" be included in Condition No. 3 between the words shall and six. Deputy City Attorney Steve George clarified that Mr. Solomon's motion include staff's language amendment of Condition No. 3.

There was no further discussion.

NOTE: A date will be set at the 7/12/99 City Council meeting for a public hearing to be held at the 7/26/99 City Council meeting.

(6:10 - 6:35)
1-289

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ACTION

PLANNING AND DEVELOPMENT

A-3

ABEYANCE ITEM

V-42-99 - PARKWAY RETAIL CENTER ON
BEHALF OF LAURICH PROPERTIES, INC.

Request for a Variance on property located on the south side of Washington Avenue, approximately 320 feet east of Buffalo Drive TO ALLOW A PROPOSED COMMERCIAL BUILDING 7 FEET FROM THE REAR PROPERTY LINE WHERE 20 FEET IS THE MINIMUM SETBACK REQUIRED, C-1 (Limited Commercial) Zone, Ward 2 (Adamsen), APN: 138-27-312-002.

BZA NOTICES MAILED: 48

PROTESTS: 1 Letter (Charleston Neighborhood Preservation)

APPROVALS: 0

Staff Recommendation: DENIAL. If approved, subject to:

1. All development must be in conformance with the plot plans and elevations.
2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.

SOLOMON

APPROVAL subject to conditions

UNANIMOUS with Boyers excused and Mack abstaining due to a relationship with one of the tenants

Susan Barton, Planning & Development, noted that this item was held in abeyance because a quorum could not be achieved. The applicant is proposing to construct 20,800 square foot retail building, which would encroach into the rear yard setback by 13 feet. A vacant zoned C-1 property is located to the south of the building. The Code does require the minimum setback to be 20 feet. The Site Development Plan has been approved and the plan depicts a seven feet rear yard setback. However, the approved site plan depicts a 60 feet deep building, whereas the Variance site plan shows a 65 foot deep building. A covered walkway attached to the north side of the building was approved at 19.5 feet wide, whereas the Variance site plan only shows 14.5 feet wide covered walkway. Staff recommends that the building width be 60 feet wide with a 6.5foot wide covered walkway and the building will be in compliance with the 20 foot rear yard setback requirement. Alternatively, the applicant can proceed with his announced plans to acquire the vacant B.L.M. land adjacent to the rear of the property. Acquisition of the land would negate the necessity for this Variance.

Staff finds no evidence of unique or extraordinary circumstances in that the applicant has created a self-imposed hardship by attempting to overbuild on this site. Therefore, staff recommended denial.

Attorney Chris Kaempfer, Kummer, Kaempfer, Bonner & Renshaw, 3800 Howard Hughes Parkway, appeared on behalf of Laurich Properties, Inc. This item was before the Board two weeks ago and a motion was made for approval. However, a quorum could not be obtained. B.L.M. owns property to the south of Building B and because it is a different property owner, a 20 foot setback is required between the building and the property line. This requirement creates a 20 foot dead space. The applicant proposes that the rear of the building be 4 feet of sidewalk, 3 feet of landscaping and a small retaining wall. In all probability, the applicant would be acquiring the B.L.M. property. However, it would not be prudent for Laurich Properties, Inc. to hold this project until B.L.M. is ready to act on this.

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V-42-99 - PARKWAY RETAIL CENTER ON
BEHALF OF LAURICH PROPERTIES, INC.

Attorney Kaempfer added that if the applicant were to honor the 20 foot setback and reduce the covered patio by 6.5 feet, some of that building might be recovered. However, this would still create 20 feet of dead space behind the building and create a 6.5 foot covered patio. The aesthetics of the building and customers would be better served with a 14.5 covered patio.

No one appeared in opposition.

There was no further discussion.

(6:35 - 6:42)

1-1170

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ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u>	
A-4	
<u>SCD-9-99 - NIGRO DESERT BLOOM, LIMITED LIABILITY COMPANY</u>	
Request for a Summerlin Certificate of Deviation on property located on the southeast corner of Allthorn Avenue and Mariola Street TO ALLOW ONE PROPOSED PARKING SPACE WHERE EIGHT ARE THE MINIMUM REQUIRED IN CONJUNCTION WITH A PROPOSED COMMUNITY ASSOCIATION RECREATION FACILITY, P-C (Planned Community) Zone, Ward 2 (Adamsen), APN: 137-36-215-020.	
BZA NOTICES MAILED: 94	
PROTESTS: 0	
APPROVALS: 0	
Staff Recommendation: DENIAL. If approved, subject to:	
1. All development must be in conformance with the plot plans and elevations.	
2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied.	
	SOLOMON APPROVAL subject to conditions UNANIMOUS with Boyers excused and Mack abstaining due to a relationship with the applicant
	Susan Barton, Planning & Development, noted that on 5/19/99 the City Referral Group approved a Site Development Plan Review for this project. One of the conditions requires that the applicant apply for a Summerlin Certificate of Deviation for reduced parking. The Summerlin Development Standards require one space for each 200 square feet of gross floor area for the Community Association Buildings and Facilities. One space has been provided where 8 are required. The parking space provided is a van-accessible handicap parking space. The Summerlin Development Standards require that the handicapped space be at least nine feet wide with an adjacent access aisle a minimum of five feet wide on one side. Therefore, staff recommended denial.
	Todd Nigro, 4545 Spring Mountain Road, appeared on behalf of the applicant. The reason for the deviation is because the property is a private-gated community and the recreation facility will be privately owned by the association. Past experiences with community facilities have found that the majority of the people who live within the community walk to that facility. This community is approximately 30 acres and within walking distances from all residences. Eleven parallel parking spaces will be provided around the perimeter of the community on all three sides. This does not include the handicap space and it exceeds the Summerlin parking requirement of eight spaces.
	Mr. Solomon indicated that the parking Variance request is appropriate in this situation because there is sufficient street parking for the recreational facility within a residential community. The applicant has provided an handicap space, which is essential. Additional parking could be installed, but it would take away from the common landscape area and it would detract from the entire purpose of having a recreational facility.
	No one appeared in opposition.
	There was no further discussion.
	(6:42 - 6:45) 1-1415

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A-5	MACK APPROVAL subject to conditions UNANIMOUS with Boyers excused
<u>V-47-99 - F. MICHAEL CORRIGAN AND NANCY L. CORRIGAN FAMILY TRUST ON BEHALF OF DISCOUNT TIRE COMPANY</u>	
Request for a Variance on property located on the south side of West Lake Mead Boulevard, approximately 750 feet west of Tenaya Way TO ALLOW A PROPOSED RETAIL BUILDING 5 FEET FROM THE SIDE PROPERTY LINE WHERE 10 FEET IS THE MINIMUM SETBACK REQUIRED, U (Undeveloped) Zone, [SC (Service Commercial) General Plan Designation] under Resolution of Intent to C-1 (Limited Commercial), Ward 2 (Adamsen), APN: 138-22-302-009. BZA NOTICES MAILED: 85 PROTESTS: 0 APPROVALS: 0 Staff Recommendation: DENIAL. If approved, subject to: 1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied. 3. The applicant must submit for review an application for a Site Development Plan Review to the Planning and Development Department. 4. The Department of Public Works requires that all previous conditions of approval for Special Use Permit U-34-99 and all subsequent site-related actions are ultimately complied with.	Susan Barton, Planning & Development, stated that the encroachment would occur adjacent to a vacant lot on the west property line. The minimum setback requirement is 10 feet. The site does not have sufficient internal landscaping and there is no evidence of unique circumstances and that the applicant can meet all minimum setback and landscaping requirements with only minor modifications to the proposed site plan. Staff finds the applicant's justification for the Variance does not warrant its approval since no appropriate hardships are cited. Therefore, staff recommended denial. Steve Kritcher, Architectural Resource Team, Inc., 411 North Central, Suite 600, Phoenix, Arizona, appeared on behalf of Discount Tire Company. The building was shifted five feet off the property line. The plan shows a 30 feet wide drive aisle in front of the building as opposed to the standard 24 feet that is required by Code. This is to allow delivery and trash pick-up trucks that service the building to be able to maneuver and turn into the service areas. A drainage easement that comes down the property line is being relocated into a 90 degree angle pushing the building closer to the drainage easement. No one appeared in opposition. There was no further discussion.

(6:45 - 6:50)
1-1577

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A-6	
V-48-99 - RIGOBERTO AND AIDENIS R. FAJARDO	SOLOMON APPROVAL subject to conditions UNANIMOUS with Boyers excused
Request for a Variance on property located at 4877 East Monroe Avenue TO ALLOW AN EXISTING ATTACHED CARPORT AND PATIO ENCLOSURE 2.5 FEET FROM THE SIDE PROPERTY LINE WHERE 5 FEET IS THE MINIMUM SETBACK REQUIRED IN CONJUNCTION WITH AN EXISTING SINGLE-FAMILY DWELLING, R-1 (Single Family Residential) Zone, Ward 3 (Reese), APN: 140-29-611-043.	Susan Barton, Planning & Development, stated that the applicant was cited for a Code Violation on 5/7/99. This action prompted the applicant to apply for this Variance request. Tom Cooley, from the City's Building Department, reported that the carport is not in compliance with the Code at this time. However, he suggested that the supports for the carport could be moved back so they would be 3 feet from the property line. For the existing patio enclosure, which is only 2.5 feet from the side property line, he suggested that a parapet wall be constructed so that it would comply with the Code. The existing attached carport and patio enclosure encroach into the site's yard setback by 2.5 feet. Their heights match that of the original single-family dwelling. The carport matches the single-family dwelling in terms of color, but not materials. The patio enclosure matches the single-family dwelling in terms of materials but not color. Staff finds no extraordinary circumstances associated with the site and notes the negative aesthetic impact of the side yard encroachments on the neighborhood, and the related safety issues. Therefore, staff recommended denial.
BZA NOTICES MAILED: 139	
PROTESTS: 0	
APPROVALS: 2 Letters	
Staff Recommendation: DENIAL. If approved, subject to:	
1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied. 3. Submit complete plans to the Building and Safety Department for review and permit. 4. If the Building and Safety Department requires the removal of the carport and patio enclosure, which is the subject of this request, this Variance becomes null and void.	Mary Cordinas, 3955 Swenson Avenue, appeared to interpret for Rigoberto Fajardo, 4877 East Monroe Avenue. Vice-Chair Del Prado suggested that the item be held in abeyance to give the applicant an opportunity to make all repairs and come back once all the Code requirements have been met. Ms. Barton replied that it is not necessary because a condition requires that the applicant submit plans to the Building Department prior to obtaining a permit. Mr. Solomon asked Ms. Barton if the carport was inspected. Ms. Barton replied that Tom Cooley verbally informed her that the carport does not meet the Code and that two requirements would need to be met. The supports would need to be moved 3 feet back from the property line and construct a parapet wall along the existing enclosure. Vice-Chair Del Prado clarified with Mr. Fajardo that he does not know how much time he would need in order to comply with the Code.

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V-48-99 - RIGOBERTO AND AIDENIS R. FAJARDO

Mr. Fajardo verified that the enclosed patio is used as a living room. Mr. Solomon noted that there are many of these existing carports in this area. The Building Department is concerned about a fire safety issue. The Board of Zoning Adjustment has approved Variances for existing structures to go within two feet of side walls, especially in older neighborhoods. The complaint about the existing carport was brought by Mr. Fajardo's neighbor.

Mr. Fajardo has owned the house for about two years and half of the carport was started before he moved into the house. Deputy City Attorney Steve George clarified that regardless of this item's outcome the applicant would still have to comply with the Uniform Building Code.

No one appeared in opposition.

There was no further discussion.

NOTE: A date will be set at the 7/26/99 City Council meeting for a public hearing to be held at the 8/4/99 City Council meeting.

(6:50 - 7:00)
1-1708

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ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u>	
A-7	<u>V-49-99 - SYSTEM CAPITAL REAL PROPERTY CORPORATION ON BEHALF OF TERRIBLE HERBST OIL COMPANY</u>
	GOYNES APPROVAL subject to conditions Motion Carried with Solomon voting NO and Boyers excused
	NOTE: An initial motion by Solomon failed as a result of a tie vote with Mack and Goynes voting NO and Boyers excused.
	Susan Barton, Planning & Development, explained that the building under construction is proposed to have a Terrible Herbst convenience store and a McDonald's Fast Food Restaurant. The applicant is proposing to construct a 100 foot high flag pole, to be set back 90 feet from Ann Road, 15 feet northeast of the primary building entrance into McDonald's. The City of Las Vegas Zoning Code provides that flags of the United States are exempt from regulation by the Code where the flag is flown from the top of a pole which is no more than 40 feet in height. Staff finds that the applicant could erect a 40 foot high flag pole at the proposed location or elsewhere on the site. Staff finds no evidence of a unique or extraordinary circumstances to the waiver from the 40 feet height. Therefore, staff recommended denial.
	Joe Gengo, Terrible Herbst Oil Company, 5195 Las Vegas Boulevard South, stated that in the same vicinity there is an Arco that has a 100 foot high flag pole. The American flag will not adversely affect the community.
	Lori Kennedy, 7121 Grand Castle Way, is a member of the Ann Road Neighborhood Coalition. This group fought for monument signs on this entire corner. There are no pylon signs, no large tall signs and the monument signs are limited to eight feet tall. She recognizes that a flag pole is technically exempt as a sign under the zoning Code. However, she feels that it violates the spirit of the PD zoning that the neighborhood has fought for in that area. It is not necessary to have a 100 foot flag pole and the flags on top of these poles are also quite large.
	Steven Johnson, 7117 Dramatic Way, stated that the 100 foot flag pole with a large flag will cause a lot more noise. The applicant could install a 40 foot high flag pole instead.
	Request for a Variance on property located at 7171 Ann Road TO ALLOW A PROPOSED 100 FOOT HIGH FLAG POLE WHERE 40 FEET IS THE MAXIMUM HEIGHT ALLOWED IN CONJUNCTION WITH AN APPROVED AND PARTIALLY CONSTRUCTED PROPOSED CONVENIENCE STORE/GAS STATION, U (Undeveloped) Zone [ML (Medium- Low Density Residential) General Plan Designation] under resolution of intent to PD (Planned Development], Ward 4 (Brown), APN: 125-34-502-001.
	BZA NOTICES MAILED: 376
	PROTESTS: 0
	APPROVALS: 0
	Staff Recommendation: DENIAL. If approved, subject to:
	1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied. 3. The flag pole shall only be permitted to fly a flag of the United States. 4. The Department of Public Works requires that all previous conditions of approval for Z-74-97, Site Development Plan Review Z-74-97(1), the Rio Vista Plaza commercial subdivision, and all other site-specific conditions of approval are ultimately complied with.

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V-49-99 - SYSTEM CAPITAL REAL
PROPERTY CORPORATION ON BEHALF OF
TERRIBLE HERBST OIL COMPANY

Mr. Solomon commented that he is aware that part of the applicant's logo is to have an American flag flying in front of all the gas stations. However, a 100 foot flag pole is not in keeping with the City's Ordinance. A 40 foot flag pole should be sufficient for displaying an American flag. There is also history of commercial development in this area to limit the amount of signage.

Deputy City Attorney Steve George clarified that a reconsideration is not necessary as the motion did not pass. He recommended to try and break the tie. If the tie cannot be broken then the tie would be equivalent to a denial and it can go to City Council, if the applicant appeals that decision.

Mr. Goynes noted that the American flag has become a trademark for Terrible Herbst and the Board follow suit with what has been done in the past. Vice-Chair Del Prado verified with Mr. Genco he accepts responsibility for the upkeep of the flag.

Deputy City Attorney Steve George clarified with the applicant that this is a final action unless it is appealed.

There was no further discussion.

(6:50 - 6:12)

1-1566

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ACTION

PLANNING AND DEVELOPMENT

A-8

V-50-99 - STATE OF NEVADA ON BEHALF
OF W L HOMES, LIMITED LIABILITY
COMPANY

Request for a Variance on property located on the northwest corner of Racel Road and Cimarron Road TO ALLOW 107,070 SQUARE FEET OF PROPOSED OPEN SPACE WHERE 126,760 SQUARE FEET IS THE MINIMUM REQUIRED IN CONJUNCTION WITH A PROPOSED SINGLE-FAMILY DEVELOPMENT, R-E (Residence Estates) Zone, under Resolution of Intent to R-PD3 (Residential Planned Development - 3 Units Per Acre), Ward 4 (Brown), APN: 125-09-301-001.

BZA NOTICES MAILED: 24

PROTESTS: 0

APPROVALS: 0

Staff Recommendation: DENIAL. If approved, subject to:

1. All development must be in conformance with the plot plans and elevations.
2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied.
3. A sidewalk system must be provided to connect all residential areas to the required open space.
4. The Department of Public Works requires all previous conditions of approval for the Tule Springs Ranch subdivision are ultimately complied with.

DEL PRADO
ABEYANCE to 8/3/99
UNANIMOUS with Boyers excused

Susan Barton, Planning & Department, explained that the applicant requested this item be held in abeyance so that he can meet with the homeowners.

Attorney Chris Kaempfer, Kummer, Kaempfer, Bonner & Renshaw, 3800 Howard Hughes Parkway, appeared on behalf of the applicant.

No one appeared in opposition.

There was no further discussion.

(6:05)
1-128

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ACTION

PLANNING AND DEVELOPMENT

A-9

V-51-99 - BIG MAMA'S COOKING, INC.

Request for a Variance on property located at 2230 West Bonanza Road TO ALLOW AN EXISTING 90 FOOT HIGH FREESTANDING GROUND SIGN WHERE 40 FEET IS THE MAXIMUM HEIGHT ALLOWED IN CONJUNCTION WITH AN EXISTING RESTAURANT, C-1 (Limited Commercial) Zone, Ward 3 (Reese). APN's: 139-29-704-023, 024 and 025.

BZA NOTICES MAILED: 118

PROTESTS: 0

APPROVALS: 0

Staff Recommendation: DENIAL. If approved, subject to:

1. All development must be in conformance with the plot plans and elevations.
2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied.

SOLOMON

APPROVAL subject to conditions and adding that the applicant submit an artist's rendering including dimensions of the sign to the Planning Department prior to construction of the sign -- UNANIMOUS with Boyers excused

Susan Barton, Planning & Development, advised that the applicant is proposing to place a sign for Big Mama's Rib Shack atop an existing 80 foot high sign pole previously used for a McDonald's restaurant. The "M" for the McDonald's restaurant is no longer there. The original restaurant was constructed in 1967, and the McDonald's freestanding ground sign was constructed in 1990 with a building permit. The existing pole is set back five feet from the site's south property line adjacent to Bonanza Avenue. Staff finds that the applicant could erect a Code conforming 40 foot high sign at the proposed location or elsewhere on the site. Alternatively, the applicant could utilize the existing sign pole by reducing its height to 30 feet and placing a 10 foot tall sign upon it. The existing freestanding ground sign's height creates a visual intrusion to the neighborhood since the proposed sign would be 50 feet higher than all surrounding Code complying signs while offering no public benefit. Therefore, staff recommended denial.

Demetrius McWhorter, 3857 Omaha Circle, requested to be allowed to use an existing pole to install a sign on top. The main reason he bought this property was because of the US-95 visibility. The reduction of the sign would have a detrimental effect on the business and would not succeed at that location without a sign. He clarified for Mr. Goynes that the sign would actually be smaller than the previous McDonald's sign.

Vice-Chair Del Prado congratulated Mr. McWhorter for keeping the surrounding area clean and neat.

Mr. Mack verified with Mr. McWhorter that the illuminated sign would be 10 foot high and 15 feet wide with the words Big Mama's Rib Shack. The McDonald's sign was removed after the property was bought.

Mr. Solomon added a condition that an artist's rendering including dimensions of the sign would be submitted to the Planning Department prior to construction of the sign. Mr. McWhorter concurred with Mr. Solomon's request.

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V-51-99 - BIG MAMA'S COOKING, INC.

No one appeared in opposition.

There was no further discussion.

(7:10 - 7:15)

1-2533

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ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u>	
A-10 <u>V-52-99 - CAMP BOB, LIMITED LIABILITY COMPANY</u> Request for a Variance on property located at 2929 and 2939 Alta Drive TO ALLOW SEVEN EXISTING KITCHENS WHERE ONE KITCHEN IS ALLOWED IN CONJUNCTION WITH THE PROPOSED LINKING OF TWO EXISTING SINGLE-FAMILY DWELLINGS, R-A (Ranch Acres) Zone, Ward 1 (McDonald), APN's: 139-32-304-005 and 006. BZA NOTICES MAILED: 64 PROTESTS: 2 (1 Letter, 1 Speaker at Meeting) APPROVALS: 0 Staff Recommendation: APPROVAL, subject to: 1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied. 3. Construct all incomplete half-street improvements on Alta Drive adjacent to this site concurrent with development of this site as required by the Department of Public Works. Alternatively, at the discretion of the City Planning Engineer, some or all such improvements may be deferred subject to the applicant entering into a Covenant Running with Land agreement to guarantee future compliance with this condition. 4. Remove all substandard public street improvements and unused driveway cuts on Alta Drive adjacent to this site, if any, and replace with new improvements meeting current City Standards, concurrent with on-site development activities as required by the Department of Public Works.	SOLOMON APPROVAL subject to conditions and an added condition that the applicant will not apply for a permit to allow convalescent, congregate or assisted living care facilities on these two properties Motion carried with Goynes voting NO and Boyers excused Susan Barton, Planning & Development, indicated that the applicant is proposing to build an entryway attached to two existing single-family dwelling. The existing single-family dwelling "A" contains three kitchens and the existing single-family dwelling "B" contains four kitchens. All of these kitchens were approved by previous Variances. This request is to consolidate seven kitchens in one single-family dwelling. The Code requires that a dwelling may not have more than one kitchen. However, staff finds an extraordinary circumstance exists with the approval of two prior Variances on the subject site and that despite the site containing two separate parcels of land, the site has the ambiance of a single lot with single-family "resort" style living. Therefore, staff recommended approval. Ms. Barton added that staff received several telephone inquiries from area residents concerned that this project may become a convalescent care facility or an assisted living facility. If in the future this project would be converted into an convalescent care facility, a Special Use Permit would be required. A rezoning or General Plan Amendment would be required if this project would be converted into an assisted living facility. No applications of this nature have been received by the Planning Department. Staff believes that the applicant's intent is to occupy this site as a dwelling. Scott Gearing, 3460 Spencer Street, appeared on behalf of the applicant and stated that this 7 ½ acre estate has been in existence for 27 years. The applicant bought these two existing dwelling and is proposing to connect them with one kitchen. Mr. Gearing concurred with staff's recommendations. Dennis Morgan, 2701 Alta Drive, expressed concern that this estate may become a multi-family dwelling or a congregate care facility. He asked that a stipulation be imposed to see that this would not happen.

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V-52-99 - CAMP BOB, LIMITED LIABILITY COMPANY

5. Meet with the Traffic Engineering Representative in Land Development for assistance in the possible redesign of the proposed driveway access, on site circulation and parking lot layout prior to the submittal of any construction plans or the issuance of any permits, whichever may occur first. Driveways shall be designed, located and constructed in accordance with Standard Drawing #222a as required by the Department of Public Works.

Mr. Solomon commented that he is aware that the applicant would have to apply for a Special Use Permit in order to convert this dwelling into a care facility. However, area residents are very concerned about this issue. He asked Deputy City Attorney Steve George if a condition of approval could be imposed restricting the applicant ever applying for such a use. Deputy City Attorney Steve George replied that such a condition is not legally enforceable. However, if the applicant is willing to accept that as a condition, then it could be imposed.

Mr. Mack stated for the record that he received few telephone calls from area residents. He visited the site and the plans clearly show that it will be a large family residence. Deputy City Attorney Steve George clarified that if this residence was to be converted into a convalescent care facility it would need to come back for a Special Use Permit that would require notification and a public hearing. However, Group Homes are protected under Federal Mandate even as the structure exists today.

Marilyn Mann, Camp Bob, Limited Liability Corporation, indicated that the confusion arose since the property was purchased because of the name Camp Bob. Mr. Solomon clarified with Ms. Mann that these two properties would never become a convalescent home or apply for that type of use. Mr. Solomon added that since she concurred with this request a condition would be imposed stating that the applicant will not apply for a use to allow convalescent, congregate, or assisted living care facilities on these two properties.

Deputy City Attorney Steve George clarified for Ms. Barton that if in the future the applicant sold this property this Variance attaches to the property and runs with the land.

There was no further discussion.

(7:15 - 7:25)
1-2847

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ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u>	
A-11 <u>V-54-99 - JACK AND AMARILIS RUGGLES ON BEHALF OF RANDALL J. ROSKE</u>	
Request for a Variance on property located at 511 South Tonopah Drive TO ALLOW FOUR PROPOSED PARKING SPACES WHERE SEVEN ARE THE MINIMUM REQUIRED AND TO PROVIDE ZERO VAN-ACCESSIBLE HANDICAP SPACES WHERE ONE IS THE MINIMUM REQUIRED IN CONJUNCTION WITH A PROPOSED SINGLE-FAMILY DWELLING CONVERSION TO AN OFFICE, PD (Planned Development) Zone, Ward 1 (McDonald), APN: 139-33-301-010.	DEL PRADO APPROVAL subject to conditions UNANIMOUS with Boyers excused
BZA NOTICES MAILED: 150	NOTE: Deputy City Attorney Steve George clarified for the record that that this item will be going before the City Council on 8/4/99 and not 8/18/99.
PROTESTS: 0	Susan Barton, Planning & Development, stated that the applicant is proposing to convert a 2,100 square foot existing single-family dwelling constructed in 1963 into an office building. No exterior alterations to the structure are proposed and all tenant improvement work will be internal to the structure. The City Code requires that one parking space be provided for 300 square feet of gross floor area. Furthermore, one handicap space is required wherever less than 25 regular spaces are required. These handicap parking requirements stem from federal law and therefore cannot be waived or otherwise reduced by local governments.
APPROVALS: 0	Given the location of this site within the residential conversion district of the Las Vegas Medical District, the alternative of constructing a two-story parking garage is not appropriate for this neighborhood. Staff is concerned about the long-term effect of granting this parking Variance. For example, if a doctor's office were to locate in the proposed office building, then the parking spaces required would increase to 9 rather than 7 spaces. Staff notes that the site plan does not provide landscaping along the east property line adjacent to a residential property. The Department of Public Works supports the present City Code parking requirements and cannot support this Variance request. The Department of Building and Safety recommends denial since Federal, State and Local law require a van accessible space. Planning staff finds no evidence of unique or extraordinary circumstances, and that the applicant has created a self-imposed hardship by providing a use that is too intensive for the site. Therefore, staff recommended denial.
Staff Recommendation: DENIAL. If approved, subject to:	
1. All development must be in conformance with the plot plans and elevations with addition of a van accessible handicap parking space.	
2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.	
3. Construct all incomplete half-street improvements (sidewalk and streetlights) on Tonopah Drive adjacent to this site concurrent with development of this site as required by the Department of Public Works.	
4. Remove all substandard public street improvements and unused driveway cuts on Tonopah Drive adjacent to this site, if any, and replace with new improvements meeting current City Standards, concurrent with on-site development activities as required by the Department of Public Works.	

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V-54-99 - JACK AND AMARILIS RUGGLES ON BEHALF OF RANDALL J. ROSKE

5. Meet with the Traffic Engineering Representative in Land Development for assistance in the possible redesign of the proposed driveway access, on site circulation and parking lot layout prior to the submittal of any construction plans or the issuance of any permits, whichever may occur first. Driveways shall be designed, located and constructed in accordance with Standard Drawing #222a as required by the Department of Public Works.

6. Site development to comply with all applicable conditions of approval for Z-20-97 and all other subsequent site-related actions as required by the Department of Public Works.

Randall J. Roske, 2643 Douglas Circle, noted that he is applying for this Variance in order to use this structure as office space. He will be maintaining the architectural integrity and the overall appearance of the neighborhood. He will provide one handicap parking space. He practices family law and has only three support staff. Most of the time he is court and he schedules one client per day. Parking should not be a major impact for the neighborhood. Most of this area has become professional and there is only one adjacent property that is residential. South of his property there is a vacant unimproved lot and across the street there is another attorney's office who is trying to maintain the architectural integrity of the area as well.

He requested that the Board approve his request so that he would not have to remove trees that have been there for a long time. This Variance will not negatively impact the surrounding neighborhood.

Vice-Chair Del Prado verified with Ms. Barton that the site plan does not depict any landscaping along the easterly property line adjacent to a single-family dwelling.

David Strait, 101 W. Brooks Avenue, explained that he applied for a parking Variance and did not draw enough trees in the back. He presented a photograph showing that there is existing vegetation and that it would not be removed.

No one appeared in opposition.

There was no further discussion.

NOTE: A date will be set at the 7/26/99 City Council meeting for a public hearing to be held at the 8/4/99 City Council meeting.

(7:25 - 7:30)
1-3398

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ITEM	ACTION
<u>PLANNING AND DEVELOPMENT</u>	
A-12 <u>V-55-99 - CARMELLA MAURO</u>	
Request for a Variance on property located at 4109 West Sahara Avenue TO ALLOW A PROPOSED ADDITION TO AN EXISTING RETAIL BUILDING 4.5 FEET FROM THE REAR PROPERTY LINE WHERE 20 FEET IS REQUIRED; 13 PARKING SPACES WHERE 18 ARE THE MINIMUM REQUIRED; AND TO ALLOW THE EXPANSION OF A NON-CONFORMING BUILDING, C-1 (Limited Commercial) Zone, Ward 1 (McDonald), APN: 162-07-511-006. BZA NOTICES MAILED: 209 PROTESTS: 2 (At the Meeting) APPROVALS: 0 Staff Recommendation: DENIAL. If approved, subject to: 1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments must be satisfied.	SOLOMON APPROVAL subject to conditions Motion carried with Goynes voting No and Boyers excused NOTE: Deputy City Attorney Steve George clarified for the record that that this item will be going before the City Council on 8/4/99 and not 8/18/99. Susan Barton, Planning & Development, advised that the applicant is proposing to construct a 464 square foot addition to an existing commercial center. The addition is proposed to be constructed of painted c.m.u. block to match the existing building. The existing commercial center has rear, side, and trash setback encroachments, but was constructed prior to the adoption of the current City Code. The Code requires the minimum rear yard setback in the C-1 Zone to be 20 feet and 18 parking spaces are the minimum amount required. Staff is concerned that if a more intensive use would be located in this building, such as a beauty salon or a restaurant, the parking deficiency would increase for that property. The Code permits the Director of Planning and Development Department to approve additions to non-conforming buildings provided that the proposed addition conforms to the following conditions: 1: The addition shall not encroach beyond the encroachment of the existing building; 2. The addition must be located in the side or rear yard; 3. The addition must not encroach more than 50 percent and 4. The total of all such additions shall not exceed 50 percent of the size of the original footprint of the structure. The proposed addition would encroach 12 feet beyond the encroachment of the existing building. Therefore, the proposed addition would not comply with conditions 1 and 3. The Department of Public Works supports the City Code parking requirements and therefore supports the denial of this Variance. Staff finds no evidence of unique or extraordinary circumstances, and that the applicant is attempting to create a self-imposed hardship by overbuilding the site. Therefore, staff recommended denial. Architect Wade Kolody, 3980 Spitze Drive, appeared on behalf of the applicant. The tenant, Mr. Gee, and the owners, Mrs. Moss and Mrs. Mauro were also present. Gee's Market is one of the oldest and major anchor tenant of this center, which consists of three separate deeded lots.

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V-55-99 - CARMELLA MAURO

Vice Chair Del Prado asked Mr. Kolody if a design is available showing the proposed improvements. Mr. Kolody answered that the building is very old with very unusual signage. An irrigated landscape strip is offered in the front and the parking lot will be re-striped. Proper signage for handicapped accessibility in the front will be installed and four new parking spaces will be added in the front. Since this property was constructed under the Uniform Building Code, both to the east and the west of Mr. Gee's location exist four-hour rated fire walls. Therefore, the expansion in the side yard is absolutely impossible. The applicant's hardship is the fact that this was constructed when C-1 zoning allowed a zero foot side yard setback, which is exactly what this building has on all side yards. The additional four feet are needed to conform to the fire safety code requirement. He added that the applicant will improve the parking by installing a total of 25 parking spaces in the front and a total of 9 parking spaces in the rear.

Mr. Kolody clarified with Vice Chair Del Prado that there is a block wall on both on the north and south of the properties all along Sahara. The parking is contiguous throughout the front of the center. The chain link fence is on the farthest eastern property line between the applicant's property and the adjacent property owner. Doug Powell, Planning Department, referred to a photograph showing the chain link fence is on the eastern property line of the three buildings. However, it is not between the three parcels.

Mr. Kolody continued that he surveyed a number of different properties in the immediate area and found that a number of taller additions have been made in the back of these properties. The applicant's addition is lower in terms of wall height and least obtrusive. Mr. Solomon noted that between Las Verdes and Arville there are some additions that have been built out. He clarified with Mr. Kolody that the addition will be used as a take-out cooking kitchen only. The addition will not have a take out window and there will be no access to the public from the alleyway.

Jay B. Wilson, owner of properties located at 4115, 4117 and 4119 West Sahara, objected to the Variance request because there is a major parking problem right now at this location. Any further reduction of parking will result in installing a chain link fence on his property in order to stop the overflow of parking from other businesses. The parking deficiency will reduce his property value. Mr. Kolody rebutted that the parking will be improved and not reduced.

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PLANNING AND DEVELOPMENT

V-55-99 - CARMELLA MAURO

John Melissa, Melissa Computers, tenant of Jay B. Wilson at 4117 and 4119 West Sahara, objected to the Variance request. He has been in this center for 13 years and was previously located adjacent to Gee's Market. When he needed to expand, he moved to a location contiguous to each other. The parking has been a persistent problem since he has been in this center. He presented photographs showing a large amount of cars. The chain link fence was erected to stop the overflow of parking from Gee's Market and a restaurant. Every tenant has "no parking" signs in front. If the take out kitchen is added to Gee's Market, the customers would have to park in the front to wait for the take-out food. This would put more demand on the parking. Presently, all employees park in the rear in order to leave the parking spaces out front available. Most of the time the employees cannot get into the back because there are delivery trucks stopped in the middle of the alley. However, the trucks usually move closer to the building and the employees are able to get through. If this expansion is approved, the trucks will not have enough space to get close to the buildings and employees will not be able to park in the rear.

Andy Gee, 7109 Carrondale Way, owner of Gee's Market stated that the chain link fence to the east property was created because of the overflow parking from a restaurant. He has been at this location for 15 years and his customers come and go within five to ten minutes. The parking problem is not created by his customers. He wants the opportunity to improve his seafood department in order to compete with another seafood market. The addition will not be a restaurant, but only a kitchen where he can fry fish for his customers.

Mr. Solomon explained that between Arville and Las Verdes there have been other stores that have expanded into the alley. Parking is limited, but it is also the type of commercial neighborhood that has been a vital part of the Las Verdes Heights community. The applicant does not have very much space to move into and that amount of space will be minimal. This will not affect the general parking in the front. The applicant may have to assure that he will not allow his employees to park in the front. Mr. Gee responded that his employees will park in the rear.

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V-55-99 - CARMELLA MAURO

There was no further discussion.

NOTE: A date will be set at the 7/26/99 City Council meeting for a public hearing to be held at the 8/4/99 City Council meeting.

(7:30 - 8:07)
2-100

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<u>PLANNING AND DEVELOPMENT</u>	
A-13 <u>V-56-99 - ALFREDO AND ELVIA MARTINEZ</u>	
Request for a Variance on property located approximately 229 feet west of Tenaya Way north of Cheyenne Road TO ALLOW THE ON-SITE RELOCATION OF AN EXISTING 14 FOOT X 48 FOOT OFF-PREMISE SIGN (BILLBOARD) 24 FEET TO THE NORTH, LOCATED IN THE OFF-PREMISE SIGN (BILLBOARD) EXCLUSIONARY ZONE, C-1 (Limited Commercial) Zone, Ward 4 (Brown), APN: 138-10-411-002. BZA NOTICES MAILED: 120 PROTESTS: 0 APPROVALS: 0 Staff Recommendation: DENIAL. If approved, subject to: 1. All development must be in conformance with the plot plans and elevations. 2. City Code requirements and design standards of all City Departments which are not affected by the approval of this Variance must be satisfied.	SOLOMON DENIAL UNANIMOUS with Boyers excused Susan Barton, Planning & Development, advised that this request is for a Variance to allow the relocation of an existing 14 foot by 48 foot off-premise billboard sign 24 feet to the north of its current position, which will be located in the Off-Premise Exclusionary Zone. Both its existing and proposed positions are within a parking area of an existing commercial center. Parking and vehicular circulation space would not be affected by the relocation. The existing off-premise sign was constructed in 1995, with an approved Special Use Permit, prior to the adoption of the current City Code and the introduction of the Off-Premise Sign Exclusionary Zone. The applicant is proposing to alter the existing non-conforming sign by changing its location, so the resulting sign is required to conform to current standards. Staff finds no evidence of unique or extraordinary circumstances. Staff cannot support a request for the relocation of an off-premise sign already located in the Off-Premise Sign Exclusionary Zone. Therefore, staff recommended denial. Attorney Chris Kaempfer, Kummer, Kaempfer, Bonner & Renshaw, 3800 Howard Hughes Parkway, appeared on behalf of the applicant. The present sign is legally approved and existing, although the sign is now within the exclusionary zone. When the sign was approved and built, that zone had not been established. The sign is located and surrounded by commercial property at Cheyenne and Tenaya. The granting of this Variance will not have any negative impact on any residential properties. The request is to move the sign 24 feet to the north because the palm trees that are placed on the property to the west, partially block this sign. If this Variance is denied the sign will remain at its present location and it will not benefit the property owner, the sign company, the traveling public or the City. It would be better if the sign is moved back off the street and benefit the traveling public.

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V-56-99 - ALFREDO AND ELVIA MARTINEZ

Mr. Solomon clarified with staff that when this sign was approved for that location it had a five-year review and it will come back for review on 4/19/2000. At that time it will be taken into consideration that the sign is now located in an exclusionary zone for billboards, but would still be considered a legal non-conforming use.

Attorney Kaempfer indicated that a precedent has been set for a similar sign located on Buffalo and Washington where the sign was too close to a bar and it was moved because it was better for the neighborhood. That sign was also in an exclusionary zone. The approval of this Variance would not extend any review period or seek to add any additional time. The request is to allow the sign to be moved because the palm trees now block 30% of it.

Mr. Solomon expressed concern about allowing the relocation of the sign into an exclusionary zone that may be eliminated in a year and perhaps even start another five-year cycle. The sign should remain where it is and wait to see what happens when it comes for its scheduled review. The Board would be remiss not to fulfill its obligation to the City Council who established an ordinance on exclusionary zones for billboards.

No one appeared in opposition.

There was no further discussion.

(8:07 - 8:20)
2-1256

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<u>PLANNING AND DEVELOPMENT</u>	
A-14 <u>V-58-99 - JAMES GORDON KINARD</u>	
Request for a Variance on property located at 7909 Rockwind Court TO ALLOW A PROPOSED SINGLE-FAMILY DWELLING 25 FEET FROM THE REAR PROPERTY LINE WHERE 35 FEET IS THE MINIMUM SETBACK REQUIRED, R-E (Residence Estates) Zone, Ward 1 (McDonald), APN: 163-04-813-008.	DEL PRADO APPROVAL subject to conditions UNANIMOUS with Boyers excused
BZA NOTICES MAILED: 57	Susan Barton, Planning & Development, explained that the applicant is proposing to construct a 3,605 square foot, one-story, single-family dwelling on a cul-de-sac known as Via Olivero Springs. The proposed dwelling would encroach into the required rear yard setback by a maximum of 10 feet. The Code requires that setback to be 35 feet. The proposed dwelling is permitted to have a 20 foot front yard setback from the back of curb. The required front and rear setbacks create a very narrow buildable area, which in some areas is only 24 feet. This is evidence of an extraordinary circumstance, therefore staff recommended approval.
PROTESTS: 0	James Kinard, 4121 W. Sahara, concurred with staff's recommendations.
APPROVALS: 0	No one appeared in opposition.
Staff Recommendation: APPROVAL, subject to:	There was no further discussion.
1. All development must be in conformance with the plot plans and elevations submitted.	
2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.	
3. The Department of Public Works requires that all applicable conditions of approval for the Via Olivero Springs subdivision are ultimately complied with.	(8:20 - 8:22) ----- 2-1704

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A-15

V-59-99 - US HOME CORPORATION

Request for a Variance on property located on the southeast corner of O'Bannon Drive and Buffalo Drive TO ALLOW 12 PROPOSED SINGLE-FAMILY DWELLINGS 20 FEET FROM THE FRONT PROPERTY LINE WHERE 25 FEET IS THE MINIMUM SETBACK REQUIRED AND 20 FEET FROM THE REAR PROPERTY LINE WHERE 30 FEET IS THE MINIMUM SETBACK REQUIRED IN CONJUNCTION WITH A PROPOSED SINGLE-FAMILY DEVELOPMENT, R-D (Single-Family Residential - Restricted) Zone, Ward 1 (McDonald), APN's: 163-03-414-001 through 012.

BZA NOTICES MAILED: 105

PROTESTS: 3 (2 Letters, 1 Telephone)

APPROVALS: 0

Staff Recommendation: DENIAL. If approved, subject to:

1. All development must be in conformance with the plot plans and elevations.
2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied.
3. The Department of Public Works requires that all previous conditions of approval for the Paseo Place subdivision and all subsequent site-related actions are ultimately complied with.

SOLOMON

APPROVAL subject to conditions

UNANIMOUS with Boyers excused

Susan Barton, Planning & Development, stated that the applicant is proposing to construct 12 proposed single-family dwellings located in the subdivision known as Paseo Place. The dwellings would encroach by a maximum of five feet into the front yard setback due to the garages and interior living areas. The dwellings would encroach by a maximum of 10 feet into the rear yard setbacks due to interior living areas. The City Council approved, subject to conditions, a Rezoning from R-E to R-D for the proposed 12 unit single-family development on 5/17/95. One of the conditions of approval is that all lots shall contain a minimum lot size of 15,000 square feet and have a minimum sale price of \$200,000. The second condition is that all homes shall contain a minimum of 2,700 square feet. Staff notes that the applicant is proposing to construct single-family dwellings which contain 3,894 square feet of livable space and a 634 square foot garage. It is highly probable that these dwellings have a market value well in excess of \$200,000. Therefore, staff recommends that the applicant slightly downsize the single-family dwellings so that the encroachments are non-existent. Staff finds no evidence of a unique situation and that the applicant has created a self-imposed hardship by attempting to overbuild the site. Therefore, staff recommended denial.

Attorney Chris Kaempfer, Kummer, Kaempfer, Bonner & Renshaw, 3800 Howard Hughes Parkway, appeared on behalf of the applicant. The people that submitted letters of protest did not understand what the applicant is trying to do. The property was originally zoned from R-E to R-D. Two of the conditions of approval for the zoning were that the homes be no less than 2,700 square feet in size and that they be no less than \$200,000 in price range. US Homes got involved in this project and looked at the surrounding homes and decided that these figures were not enough. US Homes has a very large single-story product and proposed to put it on this site. The Variance request is for a 20-foot front yard setback where a 25-foot setback is required and a 20-foot rear yard setback where a 30-foot setback is required.

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V-59-99 - US HOME CORPORATION

Mr. Kaempfer added that it has been the applicant's understanding that the City wants different designs and therefore, provided all single-story homes ranging from 3,200 square feet to nearly 4,000 square feet. The starting prices is \$300,000. The single-story homes will benefit the neighborhood by keeping the view that a lot of the area residents are concerned about. A denial of this Variance would adversely impact the neighborhood.

Mr. Solomon noted that this parcel has a lot of history. There was a lot of pressure to rezone this parcel to some type of commercial use and not have it be residential. Additional lots were permitted in order to accommodate the desired result of having single-story homes built in this parcel along Buffalo Drive. Allowing larger homes that are overtaking the lot size and encroaching into the established setbacks is a reasonable accommodation in order to preserve this neighborhood which has large expensive homes. This will still keep it as a residential community and not have the threat of a potential commercial down the road. It is in the City's best interest to preserve this residential community by approving this Variance.

No one appeared in opposition.

There was no further discussion.

(8:22 - 8:30)
2-1795

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ITEM	ACTION
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A-16	<u>V-60-99 - ROBERT & DEBORAH HOLGATE</u> Request for a Variance on property located approximately 150 feet north of West Oakey Boulevard, east of Valadez Avenue, TO ALLOW A 15 FOOT FRONT YARD SETBACK WHERE 50 FEET IS THE MINIMUM SETBACK REQUIRED IN CONJUNCTION WITH A PROPOSED SINGLE-FAMILY DWELLING, R-E (Residence Estates) Zone, Ward 1 (McDonald), APN: 163-04-605-009. BZA NOTICES MAILED: 124 PROTESTS: 0 APPROVALS: 6 (Petition submitted at meeting) Staff Recommendation: DENIAL. If approved, subject to: 1. All development must be in conformance with the plot plans and elevations, specifically the minimum driveway length of 18 feet. 2. City Code requirements and design standards of all City Departments which are not affected by approval of this Variance must be satisfied. 3. The Department of Public Works require that the distance from the face of the garage door to the back of sidewalk (or curb, if no sidewalk is proposed) shall be a minimum distance of 18 feet to prevent a car in the driveway from encroaching into the vehicular or pedestrian travel corridor.
	SOLOMON: APPROVAL subject to conditions UNANIMOUS with Boyers excused Susan Barton, Planning & Development, stated that the applicant is proposing to construct a 9,100 square foot, two-story, single-family dwelling. The proposed dwelling would encroach into the required front yard setback by a maximum of 35 feet and be setback 15 feet from Valadez Street. A photograph depicts a site with a level grade with topsoil stored towards the rear of the site. The Code requires that the minimum front yard setback for an R-E zone property to be 50 feet. Staff notes that the site plan depicts a 4:1 gradient on the eastern side of the site in the rear yard. If this were a naturally occurring slope, staff would find this to be a unique circumstance. However, the site is relatively flat, with top soil stored on it. Therefore, staff recommended denial and that the site be redesigned. The applicant is creating a self-imposed hardship. Matthew Schultz, 3068 E. Sunset Road, appeared together with Robert Holgate. The site falls very drastically from Valadez Street to the east approximately 9 feet. The applicant is trying to minimize the obstruction to the property to the rear. The encroachment to the setback is a garage and side entrance off of Valadez Street. The front elevation, the portion that is actually 15 feet from the streetscape, is rather narrow compared to the full width with the main structure being approximately 75 feet from Valadez Street. Robert Holgate submitted a petition in support with six signatures. Mr. Solomon indicated that in this neighborhood there are many different type of Variances with regard to large homes. It is an added benefit to maintain the upscale residential community and to keep with this neighborhood and the type of homes that have been developed here. No one appeared in opposition. There was no further discussion.

(8:30 - 8:35)
2-2139

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B

CITIZENS PARTICIPATION:

None.

ITEMS RAISED UNDER THIS PORTION OF THE AGENDA CANNOT BE ACTED UPON BY THE BOARD OF ZONING ADJUSTMENT UNTIL THE NOTICE PROVISIONS OF THE OPEN MEETING LAW HAVE BEEN COMPLIED WITH; THEREFORE, ACTION ON SUCH ITEMS WILL HAVE TO BE CONSIDERED AT A LATER TIME.

(8:35)
2-2350

MEETING ADJOURNED AT 8:35 P.M.

PLANNING & DEVELOPMENT DEPARTMENT

David Petrovich

DAVID PETROVICH, PLANNING SUPERVISOR,
CURRENT PLANNING DIVISION
PLANNING & DEVELOPMENT DEPARTMENT

/ac