

**AGENDA MEMO - PLANNING****CITY COUNCIL MEETING DATE: OCTOBER 19, 2022****DEPARTMENT: PLANNING****ITEM DESCRIPTION: APPLICANT/OWNER: FRANCISCO JAVIER RAMIREZ  
ARANA****\*\* STAFF RECOMMENDATION(S) \*\***

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>22-0295-ZON1</b>	Staff recommends DENIAL.	
<b>22-0295-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	22-0295-ZON1
<b>22-0295-VAR2</b>	Staff recommends DENIAL, if approved subject to conditions:	22-0295-ZON1 22-0295-VAR1

**\*\* NOTIFICATION \*\*****NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 22**NOTICES MAILED** 453 (by City Clerk)**PROTESTS** 6**APPROVALS** 0

**\*\* CONDITIONS \*\***

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**22-0295-VAR1 CONDITIONS**

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**Planning**

1. A Variance (22-0295-VAR1) is hereby approved, to allow six parking spaces where 14 is the minimum required.
2. Approval of Rezoning (22-0295-ZON1) shall be required, if approved.
3. 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.
4. 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**22-0295-VAR2 CONDITIONS**

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**Planning**

1. A Variance (22-0295-VAR2) is hereby approved, to allow a lot width of 72 feet where 100 feet is the minimum required and to allow a side yard setback of five feet where 10 feet is the minimum required.
2. Approval of Rezoning (22-0295-ZON1) and Variance (22-0295-VAR1) shall be required, if approved.

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3. 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
4. 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a project request for a Rezoning from P-R (Professional Office) to C-1 (Limited Commercial) with Variances for lot width, setback, and parking requirements for an existing, vacant commercial building located at 1516 South Eastern Avenue.

**ISSUES**

- A Variance is requested to allow a lot width of 72 feet where 100 feet is the minimum required and to allow a side yard setback of five feet where 10 feet is the minimum required. Staff does not support these requests.
- A Variance is requested to allow six parking spaces where 14 is the minimum required. Staff does not support this request.

**ANALYSIS**

Per the submitted Justification Letter date stamped, July 26, 2022, the applicant proposes to utilize the subject site for an Auto Parts (Accessory Installation) use. In order to utilize the existing commercial building to operate an Auto Parts (Accessory Installation) use, the applicant must obtain approval of a Rezoning of the subject site as the current zoning designation of P-R (Professional Office) does not allow the proposed Auto Parts (Accessory Installation) use as described by Title 19.12.

The subject site is located within the Downtown South neighborhood planning area as identified by the 2050 Las Vegas Master Plan. The Downtown South neighborhood is comprised of the City's earliest traditional neighborhoods and calls for the preservation of existing housing and opportunities for higher density transit-oriented developments along corridors like Eastern Avenue and Maryland Parkway. While the Downtown South neighborhood is predominately residential, new place and housing types will incorporate a mix of uses along the periphery to ensure housing remains affordable and gentrification is minimized.

As the subject site has a land use designation of TOC-2 (Transit Oriented Corridor – Low), the proposed Rezoning and Variances do not support the intent of the corridor mixed-use land use place type to accommodate a mixture of uses, particularly residential and transform auto-oriented areas to more walkable corridors that better support future transit improvements.

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***Rezoning***

The applicant is proposing to rezone the subject site from P-R (Professional Office) to C-1 (Limited Commercial).

The proposed C-1 (Limited Commercial) zoning district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This district should be located on the periphery of residential neighborhoods and should be confined to the intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) zoning district is consistent with the Service Commercial and the Neighborhood Center categories of the General Plan.

The subject area is primarily residential in nature with P-R (Professional Office) zoned parcels that are aligned on the Eastern Avenue corridor as low density residential uses were no longer suitable along a 100-foot Primary Arterial. P-R (Professional Office) zoned parcels are characterized as a transitional zone to minimize the impact to adjacent residential uses.

There are no other C-1 (Limited Commercial) zoned properties in the area. The closest C-1 (Limited Commercial) zoned property is approximately 1,800 feet northwest when measured from parcel line to parcel line. The subject site is surrounded by single-family residences to the west and south, an Auto Title Loans business to the north, and offices to the east. As there are no other C-1 (Limited Commercial) zoned properties adjacent to the subject site nor the immediate area, if approved, this would create an instance of "spot zoning." Title 19 defines Spot Zoning as, "the rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the General Plan."

While the subject site has a land use designation of TOC-2 (Transit Oriented Corridor – Low), which conforms to the proposed C-1 (Limited Commercial) zoning district, staff is not able to support the request. Approval of a Rezoning would allow the applicant to over-utilize the site as evidenced by the multiple Variance requests for lot width, setback, and parking requirements. As such, staff finds the proposed use could not be conducted in a manner that is harmonious and compatible with existing surrounding land uses and is recommending denial of the requested Rezoning.

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***Variances***

The first Variance requested is for the minimum parking requirements. The applicant has requested the Variance as the proposed Auto Parts (Accessory Installation) use would require a minimum of 14 spaces where the applicant would provide six parking spaces. This is a self-imposed hardship as the applicant is proposing to overuse the subject site where no evidence of exceptional narrowness, shallowness, irregular shape, or exceptional topographic conditions has been presented that would warrant the granting of a Variance.

The second Variance is requested to allow a lot width of 72 feet where 100 feet is the minimum required and to allow a five foot side yard setback where 10 feet is the minimum required. This is further evidence of the applicant attempting to over-utilize the existing site, which staff is also not able to support; therefore, staff is recommending denial on both Variance requests. If approved, subject to conditions.

**FINDINGS (22-0295-ZON1)**

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

**1. The proposal conforms to the General Plan.**

The proposed C-1 (Limited Commercial) zoning district conforms to the existing TOC-2 (Transit Oriented Corridor – Low) General Plan Designation.

**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 C-1 (Limited Commercial) zoning district allows such land uses as banquet facilities, restaurants with drive through, clinics and health clubs by right. Staff finds these uses to be too intense for direct adjacency to an existing single-family residential neighborhood and an example of ‘spot zoning’.

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

Neither growth nor development factors in the community indicate the need for the proposed rezoning.

**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.**

Eastern Avenue is a 100-foot wide Primary Arterial and is adequate in size to meet the requirements of the proposed zoning district. Oakey Boulevard is a 60-foot Minor Collector Street and is adequate in size to meet the requirements of the proposed zoning district.

**FINDINGS (22-0295-VAR1 and VAR2)**

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.16.140(L) states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to rezone a site that does not meet minimum setback, lot width, or parking requirements. An alternative zoning designation would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
04/21/71	The Board of City Commissioners at a regular meeting approved a request for Reclassification of Property (Z-0014-71) generally located at 2037 East Oakey Boulevard, on the northwest corner of Oakey Boulevard and Eastern Avenue, from R-1 to P-R. The Planning Commission recommended approval.
06/02/21	The City Council approved the following Land Use Entitlement project request (21-0029-GPA1) to adopt the City of Las Vegas 2050 Master Plan and amend the City of Las Vegas General Plan from: various categories to: TOD- 1 (Transit Oriented Development-High), TOD-2 (Transit Oriented Development-Low), TOC-1 (Transit Oriented Corridor-High), TOC-2 (Transit Oriented Corridor-Low), or NMUX (Neighborhood Center Mixed Use) within the City of Las Vegas.
08/09/22	<p>The Planning Commission (6-0 vote) recommends DENIAL on the following Land Use Entitlement project requests on 0.16 acres at 1516 South Eastern Avenue (APN 162-02-617-017), Ward 3 (Diaz)</p> <ul style="list-style-type: none"> <li>• 22-0295-ZON1 - REZONING - FROM: P-R (PROFESSIONAL OFFICE AND PARKING) TO: C-1 (LIMITED COMMERCIAL)</li> <li>• 22-0295-VAR1 - VARIANCE - TO ALLOW SIX PARKING SPACES WHERE 14 IS THE MINIMUM REQUIRED</li> <li>• 22-0295-VAR2 - VARIANCE - TO ALLOW A LOT WIDTH OF 72 FEET WHERE 100 FEET IS THE MINIMUM REQUIRED AND TO ALLOW A FIVE-FOOT SIDE YARD SETBACK WHERE 10 FEET IS REQUIRED</li> </ul>
09/21/22	The City Council voted unanimously to hold this item IN ABEYANCE to the October 19, 2022 City Council Meeting

***Most Recent Change of Ownership***

04/29/22	A deed was recorded for a change in ownership.
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***Related Building Permits/Business Licenses***

c.1959	Subject property was constructed.
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***Pre-Application Meeting***

05/17/22	A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Variance applications.
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**Neighborhood Meeting**

A neighborhood meeting was not required, nor was one held.

**Field Check**

06/30/22	A field check was conducted by staff where a vacant commercial building was observed. Staff also noted graffiti on walls. Staff has forwarded photos to Code Enforcement and a Code Enforcement case (CE22-03861) was opened where a correction letter was sent.
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**Details of Application Request****Site Area**

Net Acres	0.16
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<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Vacant	TOC-2 (Transit Oriented Corridor – Low)	P-R (Professional Office)
North	Office, Other than Listed	TOC-2 (Transit Oriented Corridor – Low)	P-R (Professional Office)
South	Single Family, Detached	O (Office)	R-1 (Single-Family Residential)
East	Office, Other than Listed	TOC-2 (Transit Oriented Corridor – Low)	P-R (Professional Office)
	Office, Other than Listed	TOC-2 (Transit Oriented Corridor – Low)	P-R (Professional Office)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

**Master and Neighborhood Plan Areas**

Master Plan 2050 Area: Downtown South

**Compliance**

N

**Special Area and Overlay Districts**

No Applicable Special Area or Overlay Districts

**Compliance**

N/A

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<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></b>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

## DEVELOPMENT STANDARDS

***Pursuant to Title 19.08, the following standards apply:***

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Lot Size	N/A	6,969 SF	N/A
Min. Lot Width	100 Feet	72 Feet	N*
Min. Setbacks			
• Front	10 Feet	25 Feet	Y
• Side	10 Feet	5 Feet	N*
• Corner	10 Feet	25 Feet	Y
• Rear	20 Feet	20 Feet	Y
Max. Lot Coverage	50 %	26%	Y
Max. Building Height	N/A	8 Feet	N/A

\*The applicant has requested a Variance (22-0295-VAR2) to allow a 72-foot lot width where 100 feet is the minimum required and a five-foot side yard setback where 10 feet is the minimum required.

<b><i>Street Name</i></b>	<b><i>Functional Classification of Street(s)</i></b>	<b><i>Governing Document</i></b>	<b><i>Actual Street Width (Feet)</i></b>	<b><i>Compliance with Street Section</i></b>
Eastern Avenue	Primary Arterial	Master Plan of Streets and Highways Map	100 Feet	Y
Oakey Boulevard	Minor Collector Street	Master Plan of Streets and Highways Map	60 Feet	Y

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

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Auto Parts (Accessory Installation)	1,830 SF	5 spaces, plus one space for each 200 square feet of gross floor area	14				
TOTAL SPACES REQUIRED			14		6		N*
Regular and Handicap Spaces Required			13	1	5	1	N*

\*The applicant has requested a Variance (22-0295-VAR1) to allow 6 parking spaces where 14 is the minimum required.