



## AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: APRIL 20, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: GAETANO D'AQUINO

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### \*\* STAFF RECOMMENDATION(S) \*\*

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                                       | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|-------------------------------------------------------------|----------------------------------|
| <b>VAR-40375</b>       | Staff recommends DENIAL, if approved subject to conditions: |                                  |
| <b>VAR-40543</b>       | Staff recommends DENIAL, if approved subject to conditions: | VAR-40375                        |
| <b>SDR-40374</b>       | Staff recommends DENIAL, if approved subject to conditions: | VAR-40374<br>VAR-40543           |

### \*\* CONDITIONS \*\*

## VAR-40375 CONDITIONS

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### Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-40543) and Site Development Plan Review (SDR-40374) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Prior to occupancy, 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 Building and Safety Department.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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## VAR-40543 CONDITIONS

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### Planning

- 1.Approval of and conformance to the Conditions of Approval for Variance (VAR-40375) and Site Development Plan Review (SDR-40374) shall be required, if approved.
- 2.This approval shall be void two years from the date of final approval, unless a building permit has been issued for new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 3.Prior to occupancy, 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 Building and Safety Department.
- 4.These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
- 5.All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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## SDR-40374 CONDITIONS

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### Planning

- 1.Approval of and conformance to the Conditions of Approval for Variance (VAR-40375) and Variance (VAR-40543) shall be required, if approved.
- 2.This approval shall be void two years from the date of final approval, unless a building permit has been issued for the new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 3.All development shall be in conformance with the site plan, landscape plan, and building elevations, date stamped 12/21/10, except as amended by conditions herein.
- 4.A Waiver from Title 19.12 is hereby approved, to allow no perimeter landscape buffer where eight-feet is required.

**Conditions Page Three**  
**April 20, 2011 - City Council Meeting**

5. An Exception from Title 19.10 is hereby approved, to allow no interior landscape islands where one landscape island for every six parking spaces is required.
6. An Exception from Title 19.12 is hereby approved, to allow no perimeter trees where 30 perimeter trees are required and no shrubs where 120 five-gallon shrubs are required.
7. Prior to occupancy, 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 Building and Safety Department.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. The applicant shall coordinate with the City Surveyor and other city staff to determine the most appropriate mapping action necessary to consolidate the existing lots. The mapping action shall be completed and recorded prior to the issuance of any building permits.
10. Reflective glazing at the pedestrian level is prohibited. Glazing above the pedestrian level shall be limited to a maximum reflectance rating of 22% (as defined by the National Institute of Standards and Technology).
11. All trash enclosures shall be walled, with gates and a roof or trellis in conformance to Title 19.08.
12. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
13. The applicant shall coordinate with the City Surveyor and other city staff to determine the most appropriate mapping action necessary to consolidate the existing lots. The mapping action shall be completed and recorded prior to the issuance of any building permits.
14. Parking lot lighting standards shall be no more than 30 feet in height and shall utilize downward-directed lights with full cut-off luminaires. Lighting on the exterior of buildings shall be shielded and shall be downward-directed. Non-residential property lighting shall be directed away from residential property or screened, and shall not create fugitive lighting on adjacent properties.
15. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
16. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

**Conditions Page Four**  
**April 20, 2011 - City Council Meeting**

**Public Works**

17. Provide proof of legal access to this site prior to the issuance of permits.
18. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans, the issuance of any building or grading permits, or the submittal of a map for this site, whichever may occur first. Provide and improve all drainage ways as recommended.

**Staff Report Page One**  
**April 20, 2011 - City Council Meeting**

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

**PROJECT DESCRIPTION**

This project will convert a currently vacant Warehouse/Distribution Center into a Wholesale Showroom Facility for an Italian Wine Import business. The building will be completely remodeled and include the addition of a 1,900 square-foot enclosed loading dock on the east side of the building and a 1,375 square-foot enclosed loading dock on the west side of the building. These additions will require a Variance to allow a zero-foot setback where 10 feet are required and a Variance to allow eight parking spaces where 48 are required. In addition, the applicant is requesting a Waiver to allow zero landscape buffers where eight-foot wide buffers are required and Exceptions to allow zero perimeter trees, shrubs and zero landscape parking lot islands.

The roof will be modified to allow for invited clients to congregate for wine-tasting events throughout the year. The applicant states that these events will not be open to the public. The building will be designed so that the applicant will have the option to lease out half of the space at a later date. This desire is the primary factor for the two separate loading docks; however, the addition of the east loading dock eliminates all parking for that tenant, as all parking provided on the site is located on the west side of the building.

Staff is recommending denial of all requests. The Site Plan could be modified to eliminate the east loading dock and install additional parking so the Variance would not be as severe as currently proposed. If these applications are denied, the project would have to be redesigned to adhere to current Title 19 code standards.

**ISSUES**

- A Variance is required to allow eight parking spaces where 48 are required;
- A Variance is required to allow a zero-foot front and side yard setback where ten-foot setbacks are required;
- A Waiver is required to allow a zero-foot landscape buffer where an eight-foot landscape buffer is required; and
- Exceptions are required to allow for no landscape parking lot islands where one is required for every six parking spaces and to allow no perimeter landscape trees or shrubs.

**Staff Report Page Two**  
**April 20, 2011 - City Council Meeting**

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i></b> |                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05/17/06                                                                 | City Council approved a General Plan Amendment (GPA-9219) to change the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area. The Planning Commission and staff recommended approval. |
| 02/08/11                                                                 | The Planning Commission vote resulted in a TIE [(3-3-1/gf/bg/rt (yes)/se, tg, tm (no) with vq (abstaining)] which is tantamount to NO RECOMMENDATION for companion items VAR-40375, VAR-40543 & SDR-40374 (PC Agenda Items 17-19/yk).                                                                                                                             |
| 03/16/11                                                                 | The City Council voted to hold companion items VAR-40375, VAR-40543 and SDR-40374 in abeyance to the April 20, 2011 City Council meeting.                                                                                                                                                                                                                         |

| <b><i>Most Recent Change of Ownership</i></b> |                                                                 |
|-----------------------------------------------|-----------------------------------------------------------------|
| 10/16/09                                      | A deed was recorded for a change in ownership for both parcels. |

| <b><i>Related Building Permits/Business Licenses</i></b>                |  |
|-------------------------------------------------------------------------|--|
| No building permits or business licenses are on file for these parcels. |  |

| <b><i>Pre-Application Meeting</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/03/10                              | Staff reviewed the requirements for a Site Development Plan Review and Variance applications for the proposed project. It was noted that two Variances would be required, one for parking and one for reduced setbacks. It was also noted that Waivers of the landscape buffers and Exceptions for the parking lot landscape islands and the number of perimeter trees would also be required. Staff informed the applicant that the parcels would need to be remapped into one parcel prior to any permits being issued. |

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

| <b><i>Field Check</i></b> |                                                                                                    |
|---------------------------|----------------------------------------------------------------------------------------------------|
| 01/13/11                  | Staff found a vacant one-story warehouse on a clean, graffiti-free property. No issues were noted. |

Staff Report Page Three  
April 20, 2011 - City Council Meeting

| <i>Details of Application Request</i> |      |
|---------------------------------------|------|
| <i>Site Area</i>                      |      |
| Net Acres                             | 1.03 |

| <i>Surrounding Property</i> | <i>Existing Land Use Per Title 19.04</i> | <i>Planned or Special Land Use Designation</i> | <i>Existing Zoning District</i>     |
|-----------------------------|------------------------------------------|------------------------------------------------|-------------------------------------|
| Subject Property            | Warehouse/Retail                         | LI/R (Light Industrial/Research)               | M (Industrial)                      |
| North                       | Retail                                   | LI/R (Light Industrial/Research)               | M (Industrial)                      |
| South                       | Retail                                   | LI/R (Light Industrial/Research)               | M (Industrial)                      |
| East                        | Union Pacific Railroad Right-of-Way      | Union Pacific Railroad Right-of-Way            | Union Pacific Railroad Right-of-Way |
| West                        | Retail                                   | LI/R (Light Industrial/Research)               | M (Industrial)                      |

| <i>Special Purpose and Overlay Districts</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|----------------------------------------------|------------|-----------|-------------------|
| A-O (Airport Overlay) District 175-feet      | X          |           | Y                 |
| Trails                                       |            | X         | N/A               |
| Rural Preservation Overlay District          |            | X         | N/A               |
| Las Vegas Redevelopment Plan Area            | X          |           | Y                 |
| Development Impact Notification Assessment   |            | X         | N/A               |
| Project of Regional Significance             |            | X         | N/A               |

## DEVELOPMENT STANDARDS

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

| <i>Standard</i> | <i>Required/Allowed</i>                  | <i>Provided</i> | <i>Compliance</i> |
|-----------------|------------------------------------------|-----------------|-------------------|
| Min. Lot Width  | 100 Feet                                 | 150 Feet        | Y                 |
| Min. Setbacks   |                                          |                 |                   |
| • Front         | 10 Feet                                  | 1 Foot          | N                 |
| • Side          | 10 Feet                                  | 0 Feet          | N                 |
| • Corner        | N/A                                      | N/A             | N/A               |
| • Rear          | 0 Feet                                   | 0 Feet          | Y                 |
| Trash Enclosure | Screened, Gated, w/<br>a Roof or Trellis | Y               | Y                 |
| Mech. Equipment | Screened                                 | Y               | Y                 |

YK

**Staff Report Page Four**  
**April 20, 2011 - City Council Meeting**

*Pursuant to Title 19.12, the following standards apply:*

| <b>Landscaping and Open Space Standards</b> |                                                                           |                 |                 |                   |
|---------------------------------------------|---------------------------------------------------------------------------|-----------------|-----------------|-------------------|
| <b>Standards</b>                            | <b>Required</b>                                                           |                 | <b>Provided</b> | <b>Compliance</b> |
|                                             | <b>Ratio</b>                                                              | <b>Trees</b>    |                 |                   |
| Buffer Trees:                               |                                                                           |                 |                 |                   |
| • North                                     | 1 Tree / 30 Linear Feet                                                   | 10 Trees        | 0 Trees         | N                 |
| • South                                     | 1 Tree / 30 Linear Feet                                                   | 10 Trees        | 0 Trees         | N                 |
| • East                                      | 1 Tree / 30 Linear Feet                                                   | 5 Trees         | 0 Trees         | N                 |
| • West                                      | 1 Tree / 30 Linear Feet                                                   | 5 Trees         | 0 Trees         | N                 |
| <b>TOTAL PERIMETER TREES</b>                |                                                                           | <b>30 Trees</b> | <b>0 Trees</b>  | <b>N</b>          |
| Parking Area Trees                          | 1 Tree / 6 Uncovered Spaces, plus 1 tree at the end of each row of spaces | 3 Trees         | 4 Trees         | Y                 |
| <b>LANDSCAPE BUFFER WIDTHS</b>              |                                                                           |                 |                 |                   |
| Min. Zone Width                             |                                                                           |                 |                 |                   |
| • North                                     | 8 Feet                                                                    |                 | 0 Feet          | N                 |
| • South                                     | 8 Feet                                                                    |                 | 0 Feet          | N                 |
| • East                                      | 8 Feet                                                                    |                 | 0 Feet          | N                 |
| • West                                      | 8 Feet                                                                    |                 | 0 Feet          | N                 |
| Wall Height                                 | 6 to 8 Feet Adjacent to Residential                                       |                 | N/A             | N/A               |

| <b>Street Name</b> | <b>Functional Classification of Street(s)</b> | <b>Governing Document</b>           | <b>Street Width (Feet)</b> | <b>Compliance with Street Section</b> |
|--------------------|-----------------------------------------------|-------------------------------------|----------------------------|---------------------------------------|
| Highland Avenue    | Secondary Collector                           | Master Plan of Streets and Highways | 80                         | Y                                     |

*Pursuant to Title 19.04 and 19.10, the following parking standards apply:*

| <b>Parking Requirement</b>   |                                            |                        |                |                 |                |                   |  |
|------------------------------|--------------------------------------------|------------------------|----------------|-----------------|----------------|-------------------|--|
| <b>Use</b>                   | <b>Gross Floor Area or Number of Units</b> | <b>Required</b>        |                | <b>Provided</b> |                | <b>Compliance</b> |  |
|                              |                                            | <b>Parking Ratio</b>   | <b>Parking</b> |                 | <b>Parking</b> |                   |  |
|                              |                                            |                        | Regular        | Handi-capped    | Regular        | Handi-capped      |  |
| Wholesale Showroom Facility  | 17,776 S.F. (Sales/ Display)               | 1 space per 500 S.F.   | 36             |                 |                |                   |  |
|                              | 27,622 S. F. (Warehouse/ Storage)          | 1 space per 2,500 S.F. | 12             |                 |                |                   |  |
| <b>TOTAL SPACES REQUIRED</b> |                                            |                        | 48             |                 | 8              |                   |  |

**Staff Report Page Five**  
**April 20, 2011 - City Council Meeting**

| Regular and Handicap Spaces Required |             |                             | 46  | 2 | 6 | 2 | N |
|--------------------------------------|-------------|-----------------------------|-----|---|---|---|---|
| Loading Spaces                       | 45,398 S.F. | 3 for 30,000 to 50,000 S.F. | 3   |   | 6 |   | Y |
| Percent Deviation                    |             |                             | 83% |   |   |   |   |

| <b><i>Waivers</i></b>                            |                                            |                                    |
|--------------------------------------------------|--------------------------------------------|------------------------------------|
| <b><i>Requirement</i></b>                        | <b><i>Request</i></b>                      | <b><i>Staff Recommendation</i></b> |
| An eight foot wide landscape buffer is required. | To have a zero foot wide landscape buffer. | Denial                             |

| <b><i>Exceptions</i></b>                                               |                                           |                                    |
|------------------------------------------------------------------------|-------------------------------------------|------------------------------------|
| <b><i>Requirement</i></b>                                              | <b><i>Request</i></b>                     | <b><i>Staff Recommendation</i></b> |
| Thirty perimeter trees and 120 five-gallon shrubs are required.        | To allow zero perimeter trees and shrubs. | Denial                             |
| One landscaped island for every six parking spaces for a total of two. | To allow no landscaped islands.           | Denial                             |

## **ANALYSIS**

The applicant is proposing to convert an existing Warehouse into a Wholesale Showroom Facility, and add approximately 23,154 square feet of floor area to the site. This additional floor area will be utilized for private parties to showcase the applicant's wines for vendors, and as loading docks. The increase in floor area will result in both an increase in the number of parking spaces required, as well as a reduction in the number of parking spaces provided, leaving only eight parking spaces on the site where 48 are required. Enclosed loading docks will be added to the east and west sides of the building to allow for two tenant spaces within the building. These loading docks will extend from the existing building along the lot line, within the required 10-foot building setback area. The addition of the loading docks limits parking to the west side only, with no parking provided for a future tenant on the east side.

As part of the request for a Site Development Plan Review, Waivers are required to allow no perimeter landscape buffers where eight feet is required. Exceptions are also required to allow no perimeter trees or shrubs where 30 trees and 120 five-gallon shrubs are required, and to allow no parking lot landscape islands where two are required. Staff is recommending denial of all requests as the applicant is proposing to overbuild the site, as is evidenced by the requested Variances, Waivers and Exceptions, and has provided no evidence of unique or extraordinary circumstances pursuant to Title 19.18.070(L) that would substantiate the Variance requests. Alternative design or a reduction in the scope of the project would allow conformance to the requirements of Title 19.

**Staff Report Page Six**  
**April 20, 2011 - City Council Meeting**

**FINDINGS (VAR-40375)**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

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

Additionally, Title 19.18.070(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 eliminating parking spaces to expand the loading dock areas. Alternative design of the site could eliminate the need for a Variance. In view of this condition, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby not within the realm of NRS Chapter 278 for granting of Variances.

**FINDINGS (VAR-40543)**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

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

Additionally, Title 19.18.070(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

**Staff Report Page Seven**  
**April 20, 2011 - City Council Meeting**

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 over build the site. Alternative design of the site or a reduction in the scope of the project would allow conformance to Title 19 requirements. It is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**FINDINGS (SDR-40374)**

In order to approve a Site Development Plan application, per Title 19.18.050 the Planning Commission and/or City Council must affirm the following:

**1.The proposed development is compatible with adjacent development and development in the area;**

The proposed warehouse showroom is similar to other buildings in the area. It is located adjacent to a railroad right-of-way, where the development will have no effect on existing adjacent development.

**2.The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;**

The General Plan designation for the site is LI/R (Light Industrial/Research). The existing site has a Warehouse use and is located within an M (Industrial) zoning district, where such uses are permitted. The proposal doesn’t meet Title 19 development standards, as several Variances, Waivers and Exceptions are needed.

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

Since the proposed site is an interior parcel, access and circulation will not affect adjacent roadways or neighborhood traffic.

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

The use of non-contrasting material for the perimeter wall is appropriate for this area, as it is interior to the site and not visible from public rights-of-way.

**5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

The proposed new façade of the building will have an Italian Villa appearance and will be a marked improvement to the existing façade and have an overall positive effect on the area.

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

The proposed structures and fencing will be subject to inspection and will therefore not compromise the public health, safety and general welfare.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 16

**NOTICES MAILED** 54 (By City Clerk)

**APPROVALS** 3

**PROTESTS** 2