

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: MAY 28, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SDR-34010 - APPLICANT: AMERICAN WEST
PETROLEUM - OWNER: PHAM CAPITAL, LLC**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to the conditions for Special Use Permit (SUP-34006) and Variance (VAR34008), 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 principal building on the site. 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 and landscape plan date stamped 04/09/09 and building elevations date stamped 03/31/09, except as amended by conditions herein.
4. A Waiver from Title 19.18.050 Commercial and Industrial District Development Standards to allow no Building Placement and Orientation Standards where buildings on corner lots are to be oriented to the corner and to the street fronts is hereby approved.
5. A Waiver from Title 19.12 Landscape and Buffer Standards to allow a zero-foot landscape buffer on a portion of the south and west perimeter where eight feet is the minimum required is hereby approved.
6. No signage is permitted as a part of the subject application; a building permit is required for all signage, if approved.
7. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications.

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8. Pre-planting and post-planting landscape inspections are required to ensure the appropriate plant material, location, size of planters, and landscape plans are being utilized. The Planning and Development Department must be contacted to schedule an inspection prior to the start of the landscape installation and after the landscape installation is completed. A certificate of occupancy will not be issued or the final inspection will not be approved until the landscape inspections have been completed.
9. 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).
10. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
11. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
12. Parking lot lighting standards shall be no more than 30 feet in height and shall utilize downward-directed lights with full cut-off luminaries. 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.
13. 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.
14. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

15. Dedicate an additional six feet of right-of-way for a total half-street width of 81 feet on Sahara Avenue adjacent to this site prior to the issuance of any permits. Relocation of existing curb line on Sahara Avenue is not required at this time.
16. Dedicate an additional 31.5 feet of right-of-way for a total radius of 54 feet on the southwest corner of Sahara Avenue and Valley View Boulevard prior to the issuance of any permits. This condition shall be modified if the applicant submits information acceptable to Staff that shows a portion of any existing private signage or building is located on or over the area being requested for dedication.

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17. Remove all substandard public street and alley improvements and unused driveway cuts adjacent to this site, if any, and replace with new improvements meeting current City Standards concurrent with development of this site.
18. Driveways shall be designed, located and constructed in accordance with Standard Drawing #222a.
19. Landscape and maintain all unimproved rightsofway on Sahara Avenue and Valley View Boulevard adjacent to this site.
20. As appropriate, submit an Encroachment Agreement to the City of Las Vegas or obtain an Occupancy Permit from the Nevada Department of Transportation for all landscaping and private improvements in the Valley View Boulevard and Sahara Avenue public rightsofway adjacent to this site prior to the issuance of any permits.
21. All private improvements and landscaping installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
22. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The application is request for a new Convenience Store with fuel pumps. The existing Convenience store with fuel pumps is proposed to be demolished. The applicant intends to place the Convenience Store along the southern property line, which in turn results in deviations from required setback and residential adjacency standards, as well as a Waiver of required landscaping. In the sites current configuration, staff cannot support this application as the proposed deviations from standards will result in a development that will have a negative impact upon the surrounding residential development. An alternate site design would facilitate the elimination of Title 19 deviations and Waivers and thereby create a development that would be compatible and harmonious with the surrounding area.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
03/11/65	The Planning Commission approved a Rezoning (Z-0018-65) from R-3 (Medium Density Residential) to C-1 (Limited Commercial) and a Plot Plan Review [Z-0018-65(1) for a proposed Convenience Store with fuel pumps on 0.58 acres at the southwest corner of Sahara Avenue and Valley View Boulevard.
06/03/97	The Board of Zoning Adjustment approved a Variance (V-0047-97) to allow an existing 65-foot tall non-conforming pole sign two feet from the front property line where five feet is the minimum required setback in a C-1 (Limited Commercial) district.
12/18/03	The Planning Commission approved a Site Development Plan Review (SDR-3321) for a 2,400 square-foot expansion of an existing Convenience Store with a Waiver of the perimeter and parking lot landscaping at 3701 W. Sahara Avenue. Staff recommended approval of the request.
08/03/07	A deed was recorded for a change of ownership at 3701 W. Sahara Avenue.
05/19/08	A Code Enforcement complaint (#65746) was processed for a structure built without permits at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 09/17/08.
08/21/08	A Code Enforcement complaint (#68941) was processed for a repair shop using paint and chemicals at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 08/22/08.

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05/14/09	The Planning Commission will consider a related Special Use Permit (SUP-34006) for a Beer/Wine/Cooler Off-Sale Establishment and a Variance (VAR-34008) to allow a zero-foot side yard setback where 10 feet is the minimum required and to allow a residential adjacency setback of 20 feet where 57 feet is required on 0.58 acres at the southwest corner of Sahara Avenue and Valley View Boulevard.
<i>Related Building Permits/Business Licenses</i>	
1966	The County Assessors Office indicates a construction date of 1966 for the building located at 3701 W. Sahara Avenue.
10/08/07	A Business License (#C05-01515) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
10/08/07	A Business License (#G02-00779) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
02/14/08	A Business License (#R05-00573) was issued for a restaurant, take-out only at 3701 W. Sahara Avenue. The license is currently active.
04/10/08	A Business License (#C05-02600) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
04/10/08	A Business License (#C15-00361) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.
07/30/08	A Business License (#C05-02627) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
07/30/08	A Business License (#S05-01046) was issued for a service station at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
07/30/08	A Business License (#C05-00366) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.
08/06/08	A Business License (#A45-00533) was issued for auto detailing at 3701 W. Sahara Avenue. The license is currently active.
08/11/08	A Business License (#G02-00823) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license is currently active.
<i>Pre-Application Meeting</i>	
03/06/09	The Planning and Development Department met with the applicant and reviewed the requirements for a Site Development Plan Review, Variance and Special Use Permit applications. • Waivers and exceptions of perimeter landscaping and building placement and orientation standards were also discussed. • Existing business licenses and building permits • Intended use and residential adjacency requirements
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application nor was one held.	

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Field Check	
04/09/09	A field check was completed on the indicated date. An existing Auto Repair Garage, Minor with fuel pumps and a storage container located at the rear of the property at 3701 W. Sahara Avenue were noted.

Details of Application Request	
Site Area	
Net Acres	0.58 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
North	Retail	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single-Family Dwellings	L (Low Density Residential)	R-1 (Single Family Residential)
East	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
West	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O Airport Overlay District (200-foot)	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following development standards are proposed:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	N/A	0.58 acres	Y
Min. Lot Width	100 Feet	150 Feet	Y
Min. Setbacks • Front (east property line) • Side (south property line) • Corner (north property line) • Rear (west property line)	25 Feet 10 Feet 15 Feet 20 Feet	66.5 Feet Zero Feet 105 Feet 26.5 Feet	Y N Y Y
Max. Lot Coverage	50%	25%	Y
Max. Building Height	N/A	19 Feet	Y
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y

Pursuant to Title 19.08.060 Residential Adjacency Standards

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	57 Feet	20 Feet	N
Adjacent development matching setback	15 Feet	20 Feet	Y
Trash Enclosure	50 Feet	60 Feet	Y

Pursuant to Title 19.12 Landscape and Buffer Standards, the following standards apply:

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Parking Area	1 Tree/6 Spaces	4 Trees	4 Trees	Y
Buffer:				
Min. Trees				
(Front: east property line)	1 Tree/20 Linear Feet	6 Trees	7 Trees	Y
(Side: south property line)	1 Tree/30 Linear Feet	6 Trees	Zero Trees	N
(Corner: north property line)	1 Tree/20 Linear Feet	5 Trees	10 Trees	Y
(Rear: west property line)	1 Tree/30 Linear Feet	5 Trees	9 Trees	Y
TOTAL		26 Trees	26 Trees	Y
Min. Zone Width				
(Front: east property line)	15 Feet		17.5 Feet	Y
(Side: south property line)	8 Feet		Zero Feet	N
(Corner: north property line)	15 Feet		15.1 Feet	Y
(Rear: west property line)	8 Feet		Zero Feet	N

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Pursuant to Title 19.10, 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	
Convenience Store	3,018 SF	1 space per 250 square feet of gfa	12	1	12	1	Y
TOTAL			13		13		Y
Loading Spaces			1		1		Y

Waivers		
Requirement	Request	Staff Recommendation
South and west property line: eight-foot landscape buffer	South and west property line: zero-foot landscape buffer on a portion of the south and west property line	Denial
Buildings on corner lots to be oriented to the corner and to the street fronts	Building oriented away from the corner and street front	Denial

ANALYSIS

- Site Plan**

There is an existing Service Station with Automotive Repair and associated fuel pumps on the subject site. The applicant has indicated that they will tear down the existing facility and rebuild it with a new Convenience Store with associated fuel pumps. The site plan indicates a 3,018 square-foot Convenience Store with six fuel pumps located under a 3,256 square-foot canopy.

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The applicant has failed to meet the minimum development standards for the side setback. The placement of the building has resulted in a Waiver and an associated Variance. The Waiver is for building placement, which requires buildings on Buildings on corner lots to be oriented to the corner and to the street fronts. The Variance (VAR-34008) is to allow a zero-foot setback where 10 feet is required and to allow a residential adjacency setback of 20 feet where 57 feet is required. These deviations are not compatible or appropriate with adjacent residential homes to the south of the subject site.

Primary access to the site is provided Sahara Avenue, Valley View Boulevard and an alley way. Sahara Avenue is indicated as a 100-foot Primary Arterial and View Boulevard is indicated as an 80-foot Secondary Collector. Both roadways are indicated on the Master Plan of Streets and Highways. The 20-foot wide alley way is located south of the subject site.

- **Parking**

A total of 13 parking spaces are provided, including one being handicapped accessible, on site. Convenience Stores require one parking space per 250 square feet of gross floor area. The applicant complies with this requirement by providing the required 13 parking spaces. Also, one loading zone is provided, which is required pursuant to Title 19.10. The loading zone is accessed from the 20-foot alley way located south of the subject site.

- **Waivers and Exceptions**

The applicant has requested three Waivers as a part of the subject application. The first and second Waivers are from Title 19.12 Landscape and Buffer Standards. The third Waiver is from Title 19.08.050 Commercial and Industrial District Development Standards. The applicant has also requested one Exception as a part of the subject application. The requested Waivers cannot be supported as they are self-imposed and could be mitigated through better site design.

- **Landscape Plan**

The landscape plan indicates the following: 24-inch box Evergreen Elm, Chilean Mesquite trees and five-gallon Japanese Mock Orange, Sago Palm and Autumn Sage. The landscape plan indicates conformance with all landscape buffer widths, except along the south and west landscape buffers. The overall site is deficient with respect to the landscape buffer widths. These deficiencies are evidenced in the number of associated Waivers.

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- **Elevations and Floor Plan**

The elevations depict an overall building height of 19 feet. The elevations indicate a typical design for a Convenience Store with associated fuel pumps. The elevations indicate windows and canopies on the front elevation. The other elevations indicate two toned paint and various building pop-outs. The rear and side elevations depict flat unarticulated elevations, which do not carry the overall design on all sides of the building. The paint colors are indicated as various shades of tan and brown with orange awnings. The mechanical equipment has been adequately screened by the use of parapet walls. The elevations also indicate signage for the proposed tenant. No signage is permitted as a part of the subject application. A condition of approval has been added, which requires all proposed signage to obtain proper building permits, if approved. The floor plan indicates a 3,018 square-foot convenience store. The floor plan is typical for the intended Convenience Store, with associated fuel pumps, which includes; sales area, walk-in cooler, office and bathrooms.

FINDINGS

The following findings must be made for a Site Development Plan Review:

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

The proposed development is not compatible with adjacent protected residential properties as it will not comply with Residential Adjacency Standards. Additionally, minimum setback requirements are not met. The adjacent protected residential properties are not adequately protected from the proposed project.

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 proposed development is inconsistent with both Title 19.08.050 Development Standards and Title 19.080.060 Residential Adjacency Requirements. The associated Variance (VAR-34008) demonstrates this inconsistency with both Title 19.08 deficiencies. This is also seen in the number of Waivers of Title 19.12 Landscape and Buffer Standards, which are requested as a part of the subject application. These deviations highlight the lack of regard for the single-family residences, which are located south of the subject site. The proposed development is both undesirable and obnoxious with regard to its overall design and adherence to minimum Title 19 requirements.

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

Adequate site access is provided from both Sahara Avenue and Valley View Boulevard. Sahara Avenue is designated as a 100-foot Primary Arterial and Valley View Boulevard is designated as an 80-foot Secondary Collector by the Master Plan of Streets and Highways.

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

The proposed building and landscape materials are not appropriate for this area and for the City. The applicant is requesting a number of Waivers of Title 19.12 Landscape and Buffer Standards. The provided landscape materials are lacking in their overall width.

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 overall building fails to create an orderly and aesthetically pleasing environment, as it fails to be compatible with adjacent protected residential development in the area. The associated Variance (VAR-34008) seeks to allow a zero-foot side yard setback where 10 feet is the minimum required and to allow a residential adjacency setback of 20 feet where 57 feet is required.

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

The proposed Convenience Store use is to be located at a zero-foot setback from the southern property line. A zero-foot setback will precipitate an increase in the visual intrusion upon the existing single-family residences to the south and will therefore impact their overall welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 8

SENATE DISTRICT 11

NOTICES MAILED 871

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APPROVALS 2

PROTESTS 7