

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: JUNE 11, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SDR-33767 - APPLICANT/OWNER: BASHIR AFZALI**

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

1. Approval of and conformance to the Conditions of Approval for Variances (VAR-33768 and VAR-33771) 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 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, landscape plan, and building elevations, date stamped 03/24/09, except as amended by conditions herein.
4. A Waiver from Title 19.12.040 Perimeter Landscape Buffer Standards is hereby approved, to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters.
5. An Exception from Title 19.10.010 is hereby approved, to allow to allow no parking lot landscape islands and trees where four of each are required.
6. The existing wall shall be raised or replaced, as needed, with a solid wall, at least six feet in height and meeting all requirements of Title 19.12.075, along the east perimeter, adjacent to the residential property.
7. The trash enclosure shall be roofed and gated to comply with the minimum requirements of Title 19.08.

SDR-33767 - Conditions Page Two
June 11, 2009 - Planning Commission Meeting

8. 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. The technical landscape plan shall include the following changes from the conceptual landscape plan: tree and shrub types and quantities will be specified; a minimum of four, five-gallon shrubs shall be planted for each required tree; and ground cover shall be provided to comply with the minimum requirements of Title 19.12.
9. 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.
10. Revised elevations shall be submitted to and approved by the Planning and Development Department prior to or at the same time application is made for a building permit to reflect the color and types of materials used.
11. 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).
12. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
13. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
14. 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.
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.

SDR-33767 - Conditions Page Three
June 11, 2009 - Planning Commission Meeting

Public Works

17. Remove all substandard public street 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. Contact the City Engineers Office at 229-6272 to coordinate the development of this project with the Martin L. King Boulevard widening project and any other public improvement projects adjacent to this site. Comply with the recommendations of the City Engineer.
19. 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

SDR-33767 - Staff Report Page One
June 11, 2009 - Planning Commission Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Site Development Plan Review for a proposed 6,232 square-foot commercial building with Waivers of Title 19.12.040 Perimeter Landscape Buffer Standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters on 0.58 acres on the east side of Martin L. King Boulevard, approximately 500 feet north of Washington Avenue. The applicant is also requesting, as part of the review, an Exception to allow no parking lot landscape islands and trees where four of each are required. Associated requests have also been submitted for a Rezoning (ZON-33765) from R-E (Residence Estates) to C-1 (Limited Commercial), a Variance (VAR-33768) to allow a 20-foot rear yard setback where Title 19.08.060 Residential Adjacency Standards require 35 feet, and a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required.

The proposed development, in its current configuration, will precipitate the overbuilding of the site as is evidenced by the requested Waivers and Exceptions as part of the Site Development Plan Review, as well as the associated Variance requests. Therefore, staff is recommending denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/01/04	The City Council approved a request for Rezoning (ZON-5222) from R-E (Residence Estates) to C-1 (Limited Commercial) on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval. The Resolution of Intent expired on 12/01/06.
12/01/04	The City Council denied requests for a Site Development Plan Review (SDR-5223) with a Waiver of perimeter buffering and landscaping standards and a Special Use Permit (SUP-5225) for a proposed Smog Check and Car Wash, Self Service on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval.

SDR-33767 - Staff Report Page Two
June 11, 2009 - Planning Commission Meeting

04/23/09	The City Council, at the request of the applicant, abeyed requests for a Rezoning (ZON-33765) from R-E (Residence Estates) to C-1 (Limited Commercial); a Variance (VAR-33768) to allow a 20-foot rear yard setback where Residential Adjacency standards require 35 feet; a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required; and a Site Development Plan Review (SDR-33767) for a proposed 6,232 square-foot commercial building with Waivers of the perimeter landscape buffer standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters and a Waiver of the building placement and orientation standards on 0.58 acres on the east side of Martin L. King Boulevard, approximately 500 feet north of Washington Avenue.
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Related Building Permits/Business Licenses

There are no related building permits or business licenses associated with the subject site.

Pre-Application Meeting

12/16/08	A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Site Development Plan Review, as well as required Variances for setbacks and parking requirements.
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Neighborhood Meeting

A neighborhood meeting was neither required nor held for this request.

Field Check

03/19/09	A field check was conducted by staff. The subject site is an undeveloped parcel. There is an unpermitted chain link fence along the front of the lot, as well as some debris.
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Details of Application Request

Site Area

Gross Acres	0.58 Acres
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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	C (Commercial)	R-E (Residence Estates)
North	Shopping Center	C (Commercial)	C-1 (Limited Commercial)
South	Retail Shops	C (Commercial)	C-1 (Limited Commercial)
East	Single-Family Residence	C (Commercial)	R-E (Residence Estates)

SDR-33767 - Staff Report Page Three
June 11, 2009 - Planning Commission Meeting

West	Single-Family Residences	R (Rural Density Residential)	R-E (Residence Estates)
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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (140 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y*
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

**The subject site is within a Rural Preservation Overlay District buffer area. The east side of Martin L. King Boulevard has a General Plan designation of C (Commercial), and falls within the Las Vegas Redevelopment Plan area. In addition, Martin L. King Boulevard is in the process of being widened to 100 feet, which meets the Title 19.06.150(B)(2) exception to maintaining the rural character of the area. These growth and development factors provide cause for this request to be considered for approval pursuant to Title 19.06.150(C).*

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 Size	N/A	25,164 SF	Y
Min. Lot Width	100 Feet	190 Feet	Y
Min. Setbacks			
• Front	20 Feet	75 Feet	Y
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear	20 Feet	20 Feet	Y
Max. Lot Coverage	50%	25%	Y
Max. Building Height	N/A	15 Feet	Y
Trash Enclosure	Roofed, gated	Not Indicated	N*
Mech. Equipment	Screened	Not Indicated	N**

**A condition has been added to require that the trash enclosure comply with all requirements of Title 19.08.050.*

***A condition has been added to require that all mechanical equipment be screened to comply with Title 19.08.050.*

SDR-33767 - Staff Report Page Four
June 11, 2009 - Planning Commission Meeting

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	One story / 15 Feet	15 Feet	Y
Adjacent development matching setback	35 Feet (Rear)	20 Feet	N*
Trash Enclosure	50 Feet	65 Feet	Y

**The applicant has submitted an associated request for a Variance (VAR-33768) to allow a 20-foot setback where Residential Adjacency requires 35 feet. The request represents a 43% deviation from the standard.*

Pursuant to Title 19.12, the following standards apply:

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Parking Area	1 Tree / 6 Spaces	4 Trees	Zero Trees	N*
Buffer:				
North, South	1 Tree / 30 Linear Feet	10 Trees	10 Trees	Y
East, West	1 Tree / 20 Linear Feet	18 Trees	18 Trees	Y
TOTAL		32 Trees	28 Trees	N*
Min. Zone Width	15 Feet (West)		10 Feet	N**
	8 Feet (North, South)		5 Feet	N**
	8 Feet (East)		15 Feet	Y
Wall Height	6 to 8 Feet, Adjacent to Residential Property		Not Indicated	N***

**The applicant is requesting an Exception to allow no parking lot trees or landscape islands where four of each are required.*

***The applicant is requesting Waivers of Title 19.12.040 Perimeter Landscape Buffer standards to allow buffers of 10 feet along the west perimeter where 15 feet is required, and five feet along the north and south perimeters where eight feet is required.*

****A condition has been added to require that a solid wall, at least six feet in height and meeting all requirements of Title 19.08.075, be constructed along the east perimeter, adjacent to the residential property.*

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	
General Retail Store, Other Than Listed	6,232 SF	1:175	34	2	30	2	
TOTAL			36		32		N*
Loading Spaces	One loading space is required, up to 10,000 SF		1		0		N*

SDR-33767 - Staff Report Page Five
June 11, 2009 - Planning Commission Meeting

Percent Deviation			14%	
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**The applicant has submitted an associated Variance (VAR-33771) to allow 32 parking spaces and no loading spaces where 36 parking spaces and one loading space is required. The request represents an 11% deviation from the standard.*

Waivers		
Request	Requirement	Staff Recommendation
To allow a 10-foot landscape buffer along the west perimeter.	15 Feet	Denial
To allow a 5-foot landscape buffer along the north and south perimeters.	8 Feet	Denial
To allow the building to be placed at the rear of the site, with parking in the front.	Located at the front of the site at the minimum setback line	Denial

Exceptions		
Request	Requirement	Staff Recommendation
To allow no parking lot trees or landscape islands.	4 Trees / islands	Denial

ANALYSIS

This is a request for a Site Development Plan Review for a proposed 6,232 square-foot commercial building with Waivers of Title 19.12.040 Perimeter Landscape Buffer Standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters on 0.58 acres on the east side of Martin L. King Boulevard, approximately 500 feet north of Washington Avenue. The applicant is also requesting, as part of the review, an Exception to allow no parking lot landscape islands and trees where four of each are required. Associated requests have also been submitted for a Rezoning (ZON-33765) from R-E (Residence Estates) to C-1 (Limited Commercial), a Variance (VAR-33768) to allow a 20-foot rear yard setback where Title 19.08.060 Residential Adjacency Standards require 35 feet, and a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required. Staff is recommending denial of this request as the site will be over built, as evidenced by the requests for Variances, Waivers and an Exception. Alternative site design, coupled with a reduction in the proposed building area, would alleviate the need for these requests, and result in a development that meets the minimum requirements of Title 19.

- General Plan and Zoning**

The subject site is located in the Southeast Sector of the General Plan, and has a land use designation of C (Commercial), which allows for commercial uses that are normally allowed

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SDR-33767 - Staff Report Page Six
June 11, 2009 - Planning Commission Meeting

within the O (Office), SC (Service Commercial), and GC (General Commercial) Master Plan land use categories.

The site is currently zoned R-E (Residence Estates), but an associated Rezoning (ZON-33765) to C-1 (Limited Commercial) has been submitted. The 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) district is consistent with the Service Commercial, and the Neighborhood Center categories of the General Plan.

- **Site Plan**

The site plan depicts a single-story, 6,232 square-foot general retail building located at the rear setback line, with 32 parking spaces located along the front of the building. The site is accessed by a single driveway to Martin L. King Boulevard, which is designated as a 100-foot Primary Arterial by the Master Plan of Streets and Highways. A trash enclosure is located in the parking lot at the southwest corner of the proposed building.

The location of the building does not conform to the Title 19.08.050 standards for Building Placement and orientation, which require that building should be located at the front of the site at the minimum setback line. The applicant is requesting a Waiver of these standards to allow the building to be placed at the rear of the site, with parking located in front of the building and adjacent to the street. Staff cannot support this Waiver, as the proposed site configuration will result in the building being located within the setback area required by Residential Adjacency standards.

The building will meet the minimum setback requirements for the C-1 (Limited Commercial) zoning district; however, pursuant to Title 19.08.060 Residential Adjacency Standards, the rear setback for this site shall not be less than the adjacent protected residential property. In this case, the adjacent residential property is zoned R-E (Residence Estates), and has a minimum rear yard setback of 35 feet. The applicant has submitted a Variance (VAR-33768) to allow a 20-foot rear yard setback where Residential Adjacency standards require 35 feet.

The parking to be provided on-site is not sufficient to meet the minimum number of spaces required by Title 19.04, and the applicant has submitted a request for a Variance (VAR-33771) to allow 32 parking spaces and zero loading spaces where 36 parking spaces and one loading space are required.

- **Landscape Plan**

The landscape plan depicts 24-inch box size trees planted at 20 feet on-center along the east and west perimeters, and at 30 feet on-center along the north and south perimeters, which

SDR-33767 - Staff Report Page Seven
June 11, 2009 - Planning Commission Meeting

meets the minimum requirement of Title 19.12. No shrubs are shown on the plan. The legend on the plan does not specify the type or number of trees/shrubs, but notes that trees and shrubs will be planted in accordance to City of Las Vegas development standards (quantity, placement and installation). A condition has been added to require a detailed technical landscape plan to ensure that all minimum requirements of Title 19.10 and 19.12 are met.

The applicant is requesting a Waiver of Title 19.12.040 Perimeter Landscape Buffer Standards to allow buffers of 10 feet where 15 feet is required along the west perimeter and five feet where eight feet is required along the north and south perimeters, as well as an Exception to allow no parking lot landscape islands and trees where four of each are required. These requests could be alleviated by reducing the floor area of the proposed building and utilizing alternative site design, resulting in a development that meets the minimum requirements of Title 19 and that would be compatible with the adjacent developments. Staff recommends denial of the requested Waivers and Exceptions as they indicate that the site will be overbuilt.

- **Elevations**

The submitted elevations depict a flat roofed, single-story building of 15 feet in height. There is a five-foot exterior shaded walkway along the front of the building, facing Martin L. King Boulevard. The arches providing entry to the walkway appear to be a stone veneer, but materials and colors are not specifically called out. A condition has been added to require revised elevations, with materials and colors specified, prior to or at the same time of building permit review, for approval by the Planning and Development Department.

- **Floor Plan**

The floor plan depicts a typical 6,232 square-foot retail shell building, to be divided into five separate suites of 1,111 to 1,133 square feet each. Each individual suite will have a separate entry and restroom facilities.

FINDINGS

The following findings must be made for an SDR:

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

The development is not compatible with adjacent development and development in the area because the site, as proposed, will be overbuilt, as is evidenced by the requested Waivers and Exceptions as part of the Site Development Plan Review, as well as the associated Variance requests. The request for a Variance to reduce the setback required by

SDR-33767 - Staff Report Page Eight
June 11, 2009 - Planning Commission Meeting

Residential Adjacency standards will result in a negative impact on the adjacent protected residential property by removing the additional buffering area that would be provided.

- 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 consistent with the General Plan, but does not comply with Title 19 standards, as evidenced by the associated requests for Variances, Waivers and an Exception that are required for the approval of this request.

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

The site is accessed by a single driveway to Martin L. King Boulevard, which is designated as a 100-foot Primary Arterial by the Master Plan of Streets and Highways, and will have no direct access to the adjacent residential neighborhoods. The development will not negatively impact adjacent roadways or neighborhood traffic.

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

The elevations do not specifically call out materials and colors for the proposed building. A condition has been added to require revised elevations, with materials and colors specified, prior to or at the same time of building permit review, for approval by the Planning and Development Department. The landscape plan indicates a sufficient number of trees around the perimeter of the site, but does not specify the type of tree to be used, nor does it specify the type or quantity of shrubs. A condition has been added to require a detailed technical landscape plan to ensure that all minimum requirements of Title 19.10 and 19.12 are met.

- 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 building elevations are not unsightly or obnoxious; however, the use of architectural features or embellishment is limited, resulting in a building with rather bland, unassuming facades that will neither detract from nor enhance development in the area.

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

SDR-33767 - Staff Report Page Nine
June 11, 2009 - Planning Commission Meeting

The proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety and general welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 21

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 161

APPROVALS 1

PROTESTS 2