



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JUNE 11, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-34013 - APPLICANT/OWNER: JON SCOTT ASHJIAN

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval and conformance to the conditions for Site Development Plan Review (SDR-34011), if approved.
2. Conformance to the conditions for Site Development Plan Review (SDR-28390), Variance (VAR-28392) and Vacation (VAC-28393), if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow no wall adjacent to a residential zoning district where a perimeter wall is required for an industrial property located adjacent to a residential zoning district on 0.61 acres at 4515 Balsam Street. Staff is recommending denial of the request because the applicant has created a self-imposed hardship that could be alleviated through adherence to Title 19.12.075 Wall Standards.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
01/12/07	A deed was recorded for change of ownership at 4515 Balsam Street.
03/31/07	A Building Permit (#136690) was initiated for a tenant improvement at 4505 Balsam Street. No reviews were ever generated.
03/31/07	A Building Permit (#136693) was initiated for a tenant improvement at 4515 Balsam Street. No reviews were ever generated.
12/19/07	The City Council approved an Annexation (ANX-23639) for a petition to Annex property at 4515 Balsam Street, containing approximately 0.61 acres. The Planning Commission and staff recommended approval of the request. The effective date of the Annexation was 12/28/07.
12/19/07	The City Council approved an Annexation (ANX-23635) for a petition to Annex property at 4505 Balsam Street, containing approximately 0.62 acres. The Planning Commission and staff recommended approval of the request. The effective date of the Annexation was 12/28/07.
02/27/08	A Code Enforcement complaint (#62799) was processed for a business being run out of an existing residence at 4515 Balsam Street. The complaint was closed by Code Enforcement on 09/04/08.
03/18/08	A Code Enforcement complaint (#63536) was processed for a business being run out of an existing residence at 4505 Balsam Street. The complaint was closed by Code Enforcement on 03/27/08.
03/18/08	A Code Enforcement complaint (#63537) was processed for a business being run out of an existing residence at 4515 Balsam Street. The complaint was closed by Code Enforcement on 03/27/08.

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08/20/08	The City Council approved a General Plan Amendment (GPA-28388) to amend a portion of the Centennial Hills Sector Plan of the General Plan from O (Office) to LI/R (Light Industrial/Research); Rezoning (ZON-28389) from R-E (Residence Estates) and U (Undeveloped) [O (Office) General Plan Designation] to C-PB (Planned Business Park) and M (Industrial), a Site Development Plan Review (SDR-28390) for a proposed 51,250 square-foot warehouse center with 18,100 square feet of office with Waivers to allow a 10-foot landscape buffer on the eastern property line where 15 feet is required and a zero-foot landscape buffer on the western and portions of the southern property line, and a Variance (VAR-28392) to allow a 4.62 acres to C-PB (Planned Business Park) zoning district where 20 acres is the minimum site area required and to allow a 10-foot side setback where 50 feet is required for an M (Industrial) district located adjacent to a residential district on 5.62 acres at 4505 and 4515 Balsam Street and 4491 North Rainbow Boulevard. The Planning Commission recommended approval, but staff recommended denial of the requests.
08/20/08	The City Council approved a Vacation (VAC-28393) to vacate a 60-foot wide portion of Balsam Street located approximately 300 feet south of Red Coach Avenue. The Planning Commission recommended approval, but staff recommended denial of the request.
09/08/08	A Code Enforcement complaint (#69510) was processed for a business being run out of an existing residence and vehicles being parked on a dirt lot at 4515 Balsam Street. The complaint was closed by Code Enforcement on 09/10/08.
02/17/09	A Code Enforcement complaint (#74599) was processed for a business being run out of an existing residence and vehicles being parked on a dirt lot at 4515 Balsam Street. The complaint has not being resolved.
02/17/09	A Code Enforcement complaint (#74601) was processed for a business being run out of an existing residence and vehicles being parked on a dirt lot at 4505 Balsam Street. The complaint has not been resolved.
03/30/09	Staff administratively approved a Temporary Commercial Permit (TCP-33864) for an auction located at 4515 Balsam Avenue. The permit was valid from 03/30/09 to 04/28/09.
05/14/09	The Planning Commission will consider a related a Major Amendment to an approved Site Development Plan Review (SDR-28390) for the conversion of two existing residences, one 2,150 square feet and one 2,750 square feet to a proposed 4,900 square-foot Contractors Plant, Shop and Storage Yard with Waivers to allow a zero-foot landscape buffer along the east perimeter where 15 is the minimum required and a zero-foot buffer along the north, west and south perimeter where eight feet is the minimum required on 1.23 acres at 4505 and 4515 Balsam Street

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<i>Related Building Permits/Business Licenses</i>	
1966	The County Assessors Office indicates a construction date of 1966 for the building located at 4505 Balsam Street.
1972	The County Assessors Office indicates a construction date of 1972 for the building located at 4515 Balsam Street.
10/21/98	A Business License (#C11-07090) was issued for a contractor at 4585 N. Rainbow Boulevard. A change of location was requested on 08/27/08 to 4515 Balsam Street. The license was denied on 10/14/08.
02/06/07	A Business License (#E02-00793) was issued for equipment rental and leasing at 4585 N. Rainbow Boulevard. A change of location was requested on 02/27/09 to 4515 Balsam Street. The license was denied on 03/30/09.
12/28/07	Clark County issued a Building Permit (#07-41094) for a certificate of occupancy at 4505 Balsam Street.
06/11/08	A Business License (#C11-11377) was issued for a contractor at 4585 N. Rainbow Boulevard. A change of location was requested on 03/11/09 to 4505 Balsam Street. The license was denied by Planning and Development on 03/30/09.
06/11/08	A Business License (#L33-01071) was issued for lawn and landscaping maintenance at 4505 Balsam Street. The license was marked out of business on 03/11/09.
<i>Pre-Application Meeting</i>	
03/09/09	The Planning and Development Department met with the applicant and reviewed the requirements for a Site Development Plan Review and Variance applications. The following is a list of issues discussed at the pre-application meeting: • Outstanding Building, Licensing and Code Enforcement issues • Required Waivers and Exception on-site • Previous entitlements on the subject site
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application nor was one held.	
<i>Field Check</i>	
04/09/09	Planning and Development Department completed a field inspection at 4505 and 4515 Balsam Street. Staff observed two existing homes, which have been converted to commercial uses; however no business licenses or building permits exist for these homes. The front yards were paved with asphalt and contain chain-link fencing with barbed wire at the rear of the properties.
04/29/09	Code Enforcement indicated that they inspected the site on 04/29/09. The inspection revealed that the applicant has not complied with any prior outstanding issues at both 4505 and 4515 Balsam Street. Code Enforcement also identified additional illegal vehicles and debris at 4505 Balsam Street.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	1.23 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residences	LI/R (Light Industrial/Research)	R-E (Residence Estates)
North	Single-Family Residences	O (Office)	Clark County R-E (Rural Estates)
South	Mini-Storage Facility and Office	SC (Service Commercial)	C-1 (Limited Commercial)
East	Undeveloped [Approved Site Development Plan Review (SDR-30502)]	LI/R (Light Industrial/Research)	C-PB (Planned Business Park)
West	Right-of-Way (U.S. 95)	Right-of-Way (U.S. 95)	Right-of-Way (U.S. 95)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (175-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

DEVELOPMENT STANDARDS

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

<i>Landscaping and Open Space Standards</i>			
<i>Standards</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
Wall Height	6-8 Feet	0 Feet	N

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ANALYSIS

Title 19.12.075 Wall Standards requires that, for industrial properties, a perimeter wall shall be constructed adjacent to any residential zoning district or property used solely for residential purposes. The wall shall be a minimum height of six feet in height and in no case shall it exceed the height limitation applicable to the zoning district or property. The submitted site plan does not indicate any proposed walls on the subject site. The applicant has failed to comply Title 19.12.075 by providing no wall between the subject M (Industrial) zoned property and the adjacent residential property to the north, which is located within Clark County has a zoning designation of R-E (Rural Estates). The submitted site plan does not indicate any proposed walls on the subject site. Adherence to minimum Title 19.12.075 requirements would alleviate the need for this Variance; therefore, staff is recommending denial of this request as the applicant has created a self-imposed hardship by proposing to not build a required wall adjacent to a residential zoned property.

FINDINGS

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 19.18.070L 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 not constructing a minimum six-foot wall in order to adequately protect the existing residentially zoned property to the north. Alternative site design and adherence to Title 19.12.075 Wall Standards would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 37

SENATE DISTRICT 4

NOTICES MAILED 147

APPROVALS 1

PROTESTS 4