

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: JUNE 11, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SDR-34011 - APPLICANT/OWNER: JON SCOTT ASHJIAN**

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

1. Approval and conformance to the conditions for Variance (VAR-34013), if approved.
2. Conformance to the conditions of approval for Site Development Plan Review (SDR-28390), Variance (VAR-28392), and Vacation (VAC-28393), if approved.
3. This approval shall be void unless a building permit has been issued for the conversion of the existing residential buildings to commercial building within 90 days from the date of final approval, and a final inspection has been completed within one year of the date of final approval.
4. All development shall be in conformance with the site plan and landscape plan date stamped 04/21/09 and elevations (photographs) date stamped 03/31/09, except as amended by conditions herein.
5. A revised site/landscape plan shall be submitted to and approved by the Planning and Development Department, prior to the time application is made for a building permit, to reflect the correct Assessors Parcel Numbers, building addresses, site acreage and square-footage in the site data and unit/building data.
6. A Waiver from Title 19.12 Landscape and Buffer Standards to allow a zero-foot landscape buffer along the east perimeter where 15 feet is the minimum required and a zero-foot buffer along the north, west, and south perimeter where eight feet is the minimum required is hereby approved, if approved.
7. An Exception from Title 19.12 Landscape Buffer Standards to allow two trees where 50 are required along the perimeter of the entire site is hereby approved, if approved.
8. An Exception from Title 19.10 Parking, Loading and Traffic Standards to allow zero trees where six trees are required for landscape islands at the end of each row is hereby approved, if approved.

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9. An Exception from Title 19.10 Parking, Loading and Traffic Standards to allow no wall or landscape berm where a low wall or berm with a maximum height of thirty inches or some other screening method approved as a part of the landscape plan is hereby approved, if approved.
10. The existing barbed wire on the subject site shall be removed prior to issuance of building permits.
11. The applicant shall work with City staff to determine the most appropriate mapping action necessary to consolidate the two existing parcels. The mapping action shall be completed and recorded prior to the issuance of building permits.
12. 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.
13. 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.
14. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
15. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
16. 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.
17. 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.

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18. Prior to the submittal of a building permit application, the applicant shall meet with Planning and Development Department staff to develop a comprehensive address plan for the subject site. A copy of the approved address plan shall be submitted with any future building permit applications related to the site.
19. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

20. Coordinate with the Department of Building and Safety to determine if existing property lines have any impact on further development of this site.
21. Construct all incomplete half-street improvements including curb, gutter, sidewalk, driveway access and appropriate transitional paving on Balsam Street adjacent to this site concurrent with development of this site. Install all appurtenant underground facilities, if any, adjacent to this site needed for the future traffic signal system concurrent with development of this site. All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site.
22. Meet with the Traffic Engineering Representative in Land Development for assistance in the possible redesign of the proposed driveway access, on site circulation and parking lot layout prior to the submittal of any construction plans or the issuance of any permits, whichever may occur first. Driveways shall be designed, located and constructed in accordance with Standard Drawing #222a.
23. Provide a copy of a perpetual irrevocable recorded Joint Access Agreement between parcel numbers 138-03-602-007 and 138-03-602-008 prior to the issuance of any permits unless parcels are consolidated through an acceptable alternative method.
24. Extend public sewer from the intersection of Rainbow Boulevard and Red Coach Avenue to this site at a size, depth and location acceptable to the Collection System Planning section of the Department of Public Works. Connect to public sewer and abandon any Individual Sewage Collection System (ISDS) prior to the issuance of any permits for this site. Provide public sewer easements for all public sewers not located within a public street rightofway prior to the issuance of any permits as required by the Department of Public Works. Improvement Drawings submitted to the City for review shall not be approved for construction until all required public sewer easements necessary to connect this site to the existing public sewer system have been granted to the City.

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25. All landscaping and private improvements installed with this project shall be situated and maintained so as not to create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
26. Comply with the requirements of Las Vegas Municipal Code Chapter 4.32 Traffic Signal Impact Fee prior to the issuance of permits for this site.
27. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed use of this facility. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The subject site has two existing single-family dwellings, which have been illegally converted into a commercial building, which houses a Contractors Plant, Shop and Storage Yard use. The applicant is requesting to legalize the current site conditions by means of this request and the associated Variance request. The subject site fails to comply with Title 19, as is evidenced by the numerous Waivers and associated Variance application. Staff cannot support this request as the site cannot be developed in a compatible and harmonious manner with the surrounding area; therefore staff is recommending denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
01/12/07	A deed was recorded for change of ownership at 4515 Balsam Street.
03/21/07	A deed was recorded for a change of ownership at 4505 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 been 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 Variance (VAR-34013) 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.
<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.

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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 Exceptions 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	The 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.

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

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residences	LI/R (Light Industrial/Research)	M (Industrial)
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	
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 19.08.050, the following development standards are proposed:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	1.23 acres	N/A
Min. Lot Width	100 Feet	169 Feet	Y
Min. Setbacks			
• Front (east property line)	10 Feet	100 Feet	Y
• Side (south property line)	10 Feet	15.7 Feet	Y
• Side (north property line)	10 Feet	13.3 Feet	Y
• Rear (west property line)	0 Feet	203.8 Feet	Y
Min. Distance Between Buildings	N/A	27 Feet	N/A
Max. Lot Coverage	N/A	9.1%	N/A
Max. Building Height	N/A	24 Feet	Y
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened		N

		Not Screened	
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Pursuant to Title 19.08.060 Residential Adjacency Standards

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	72 Feet	24 Feet	N
Adjacent development matching setback	10 Feet	13.3 Feet	Y
Trash Enclosure	50 Feet	98 Feet	Y

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>
	<i>Ratio</i>	<i>Trees</i>		
Parking Area	1 Tree/ 6 Spaces	6 Trees	0 Trees	N
Buffer:				
Min. Trees				
(Front: east property line)	1 Tree/20 Linear Feet	9 Trees	0 Trees	N
(Side: south property line)	1 Tree/30 Linear Feet	11 Trees	0 Trees	N
(Side: north property line)	1 Tree/20 Linear Feet	18 Trees	0 Trees	N
(Rear: west property line)	1 Tree/30 Linear Feet	6 Trees	0 Trees	N
TOTAL		50 Trees	2 Trees	N
Min. Zone Width				
(Front: east property line)	15 Feet		0 Feet	N
(Side: south property line)	8 Feet		0 Feet	N
(Side: north property line)	8 Feet		0 Feet	N
(Rear: west property line)	8 Feet		0 Feet	N
Wall Height	6-8 Feet		0 Feet	N

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Contractors Plant, Shop & Storage Yard	4,900 SF	1 space per 500 square feet of gfa	9	1	9	1	Y
TOTAL			10		10		Y
Loading Spaces			1		1		Y

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Waivers		
Requirement	Request	Staff Recommendation
East landscape buffer: 15 Feet West landscape buffer: 8 Feet South landscape buffer: 8 Feet North landscape buffer: 8 Feet	East landscape buffer: 0 Feet West landscape buffer: 0 Feet South landscape buffer: 0 Feet North landscape buffer: 0 Feet	Denial

Exceptions		
Requirement	Request	Staff Recommendations
50 trees are required along the perimeter of the overall site	To allow two trees along the perimeter of the overall site	Denial
Six trees in the landscape fingers every six spaces	To allow zero trees in the landscape fingers every six spaces	Denial
Parking lots shall be screened from adjacent roadways by a low wall or berm with a maximum height of thirty-inches	To allow no parking lot screening	Denial

ANALYSIS

- Background**

The table below has been included as a reference, which compares the previously approved Site Development Plan Review (SDR-28390) to the subject Major Modification of the approved Site Development Plan Review (SDR-29390).

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Standard	Previously approved through Site Development Plan Review (SDR-28390)		Proposed through Site Development Plan Review (SDR-34010)
Site Acreage	west portion 1.29 acres and east portion 4.62 acres		1.23 acres
Setbacks	west portion Front: 40 Feet Side: 10 Feet Side: 10 Feet Rear: 155 Feet	east portion Front: 64 Feet Side: 20 Feet Side: 20 Feet Rear: 54 Feet	Front (East): 63 Feet Side (North): 13.3 Feet Side (South): 15.67 Feet Rear (West): 203.8 Feet
Building Totals	6 buildings total 63,250 SF of office and warehouse 2 building total 6,100 SF of office		2 buildings total 4,900 SF of office
Parking Spaces	104 regular with 12 handicapped		10 regular with 1 handicapped
Loading	6 Loading Zones		1 Loading Zone
Landscape Buffer	Front (East): 10 where 15 Rear (West): 0 where 8 Side (North): 10 where 8 Side (South-portion): 0 where 8		Front (East): 0 where 15 Rear (West): 0 where 8 Side (North): 0 where 8 Side (South): 0 where 8

- **Site Plan**

Two parcels make up the subject site located at 4505 and 4515 Balsam Street. 4505 Balsam Street is 0.62 acres in size and 4515 Balsam Street is 0.61 acres in size. The two parcels total 1.23 acres in size. The site plan indicates two existing buildings. The first building at 4505 Balsam Street is 2,150 square feet and the second building at 4515 Balsam Street is 2,750 square feet in size. The total square-footage on the subject site is 4,900 square feet. No additional square-footage is being added to the existing buildings. A condition of approval has been added, which requires the consolidation of the two existing parcels and the mapping action to be completed and recorded prior to the issuance of building permits.

The applicant is proposing a 4,900 square-foot Contractors Plant, Shop & Storage Yard, which includes two existing buildings and 10 associated parking spaces, including one van accessible handicapped parking space. The applicant intends to operate both of the existing buildings as office space. The western portion of the site is utilized for the storage of large trucks and industrial equipment. Access to the site is provided from a driveway located off of Balsam Road. Balsam Road is designated as a 60-foot Local Street on the Master Plan of Streets and Highways.

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The submitted site plan fails to depict any required walls pursuant to Title 19.12.075 Wall Standards, which requires for industrial properties that a perimeter wall shall be constructed adjacent to any residential zoning district or property used solely for residential purposes, shall be a minimum height of six feet in height, and in no case shall exceed the height limitation applicable to the zoning district or property. The adjacent residential property to the north is located within Clark County and has a zoning designation of R-E (Rural Estates). A related Variance (VAR-34013) accompanies the subject Site Development Plan Review to request a deviation from this standard. Finally, two six-foot block walls are indicated on the interior of the site plan. Both six-foot walls meet Title 19.12 requirements.

- **Landscape Plan**

The submitted landscape plan indicates two 24-inch box Acacia trees and 61 five-gallon Golden Dyssodia shrubs. A site inspection concluded that there are four existing 25-foot tall Washingtonia Palms located in the parking area and two existing 24-inch box Mediterranean Palms located near the east perimeter of the overall site.

The applicant is deficient with almost all aspects of Title 19.10 and 19.12 requirements for landscaping. The Landscape and Buffer Standard table indicates Title 19 requirements, as well as the deviations requested by the applicant. Staff is recommending denial of all requested Waivers and Exceptions as they are deviations of standard Title 19.10 and 19.12 requirements.

- **Elevations**

The elevations (photographs) indicate two existing 24-foot buildings. The buildings were both originally built as single-family dwellings. The exterior appearance of the buildings will remain unchanged, but the use is proposed to be a Contractors Plant, Shop and Storage Yard use. Photographs were submitted instead of drawn building elevations as both structures are existing. The buildings are indicated as being painted with earth tones and utilizing rock veneer. The elevations also indicate that the mechanical equipment is roof mounted and not properly screened. A condition of approval has been added, which requires all mechanical equipment to be properly screened.

The applicant fails to comply with Title 19.08.060 Residential Adjacency Standards. However the two buildings on the subject site are both existing, thereby being legal non-conforming, which allows conformance to the 3:1 requirement.

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- **Floor Plan**

The floor plans depict two buildings to be utilized for the proposed Contractors Plant, Shop and Storage Yard. The two existing buildings are indicated as one 2,150 and 2,750 square feet in size. No additional square-footage is being added to the existing structures. The floor plans are indicative of typical office uses which include; office, reception, waiting rooms, conference rooms, restrooms and storage areas.

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 residential development in the area. This is demonstrated through the number of associated Waivers and Exceptions. This is also seen in the associated Variance (VAR-34013) request from Title 19.12.075, which requires a wall to screen the existing Clark County (Rural Estates) zoned single-family dwelling to the north from the subject M (Industrial) zoning district.

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 nearly all Title 19.10 and 19.12 Landscape Standard Requirements. The site is also inconsistent with Wall Standards by failing to provide a screen wall along the north property line, which is adjacent to the existing single-family dwelling located within Clark County with a zoning designation of R-E (Rural Estates).

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

Site access and circulation are negatively impacted due to the proposed industrial uses on a Local Street intended for residential uses. Access is provided from Balsam Street, which is designated as a 60-foot Local Street on 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 of the City. The applicant is requesting a number of Waivers and Exceptions of both Title 19.10 Parking, Loading and Traffic Standards and 19.12 Landscape and Buffer Standards. The provided landscape materials are lacking in overall width and quantity.

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- 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 site fails to create an orderly and aesthetically pleasing environment, as it fails to be compatible with adjacent residential development to the north. The associated Variance (VAR-34013) 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 highlights the lack of regard to the existing residence located north of the subject site. The proposed development is both undesirable and obnoxious with regard to overall design and its failure to adherence to the minimum Title 19 requirements.

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

The proposed Contractors Plant, Shop and Storage Yard Convenience use is not adequately screened from the existing single-family residence to the north. This will precipitate an increase in the visual, noise and dust, which will intrude upon the existing single-family residences located in both Clark County and the City of Las Vegas and will therefore impact their overall welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 37

SENATE DISTRICT 4

NOTICES MAILED 147

APPROVALS 1

PROTESTS 4