



**AGENDA MEMO - PLANNING**

**PLANNING COMMISSION MEETING DATE: APRIL 12, 2011**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT/OWNER: MARY BARTSAS 19, LLC**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
<b>ZON-40490</b>	Staff recommends APPROVAL.	
<b>VAR-40491</b>	Staff recommends DENIAL, if approved subject to conditions:	ZON-40490
<b>SDR-40492</b>	Staff recommends DENIAL, if approved subject to conditions:	ZON-40490 VAR-40491

**\*\* CONDITIONS \*\***

**VAR-40491 CONDITIONS**

**Planning**

1. Approval of Rezoning (ZON-40490) shall be required and the approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-40492) 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 change in building occupancy. 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.

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5. A revised site 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 depict three parking spaces on the site; two spaces under the existing carport and one van accessible handicap accessible space to the north of the access drive off of Santa Paula Drive. All parking spaces and drive aisles must meet the minimum requirements of Title 19.10 and spaces may neither be located within the public right-of-way, nor be located so that vehicles must back out onto a public street.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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## SDR-40492 CONDITIONS

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### Planning

1. Approval of Rezoning (ZON-40490) shall be required and the approval of and conformance to the Conditions of Approval for Variance (VAR-40491) 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 change in building occupancy. 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 and landscape plan date stamped 02/09/11 and floor plans and building elevations date stamped 12/23/10, except as amended by conditions herein.
4. A Waiver from Title 19.12 is hereby approved, to allow no landscape buffer along the north and east perimeter where a 15-foot wide buffer is required and to allow no landscape buffer along the south and west perimeter where an eight-foot wide buffer is required.
5. An Exception from 19.08.050 is hereby approved, to allow curbside refuse pick-up in lieu of a trash enclosure. The applicant shall provide a letter from the waste service provider to the Department of Planning prior to the issuance of a building permit indicating that curb-side pickup of trash is acceptable after the conversion of the site to commercial use.

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6. Any changes based upon right-of-way, traffic or drainage studies or street improvements required by the city or public utilities shall not reduce the widths of perimeter landscape buffers, height of walls or quantities of plant materials from that on submitted landscape plans date stamped 02/09/11. Any changes based upon subsequently submitted studies must be accommodated elsewhere on the site.
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. A revised site 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 depict three parking spaces on the site; two spaces under the existing carport and one van accessible handicap accessible space to the north of the access drive off of Santa Paula Drive. All parking spaces and drive aisles must meet the minimum requirements of Title 19.10 and spaces may neither be located within the public right-of-way, nor be located so that vehicles must back out onto a public street.
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 mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
12. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
13. 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.
14. 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.
15. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

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Public Works

16. Remove all substandard sidewalk improvements and unused driveway cuts adjacent to this site and replace with new sidewalk meeting current City Standards concurrent with on-site development activities as shown on the approved Site Plan. The existing “pan” style driveways may remain. All existing public improvements damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site.
17. No onsite parking shall be allowed to back into the public right-of-way.
18. Provide proof of joint access with the adjacent parcel to the west (APN# 162-03-311-001) prior to occupancy of this site.
19. All landscaping and private improvements, if any, 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.
20. Submit an Encroachment Agreement for all landscaping and private improvements, if any, located in the Oakey Boulevard and Santa Paula Drive public rights-of-way adjacent to this site prior to occupancy of this site. The installation and maintenance of all landscaping in the public right of way shall be the responsibility of the adjacent property owner(s) and shall be transferred with the sale of the property for the entire term of the Encroachment Agreement

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

**PROJECT DESCRIPTION**

The subject site consists of an existing 1,632 square-foot residential duplex at 528 East Oakey Blvd. The applicant proposes to rezone the site from R-4 (High Density Residential) to P-R (Professional Office and Parking) and complete a Site Development Plan Review in order to convert the existing duplex into a professional office. The front and side yards are paved with asphalt and a seven-foot tall detached accessory structure (carport) is located in the rear corner side yard. The site currently contains minimal landscaping with some planters at the front and side of the building, but no new landscaping has been proposed to be added along the perimeter. A Variance to allow three parking spaces where six spaces are required accompanies this request. Staff recommends approval of the requested Rezoning as it is appropriate for the site and will conform to the existing General Plan designation; however, denial of the requested Site Development Plan Review and Variance is recommended. If denied, the site would remain a single-family residence, and a new Site Development Plan Review would be required to convert the site to a commercial use.

**ISSUES**

- The existing C (Commercial) land use designation supports the requested Rezoning from R-4 (High Density Residential) to P-R (Professional Office and Parking).
- A Variance from Title 19.04 is required to allow three parking spaces where six spaces are required (50% deviation).
- The requested Site Development Plan Review is required due to the change in building occupancy from Residential to Commercial.
- The applicant is proposing no alterations to the existing building or site; therefore a Waiver to the required Perimeter Landscape Buffer Requirement to allow no landscape buffers along all property lines has been requested.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i>	
04/23/81	The Board of Zoning Adjustment approved a Variance (V-0021-81) to allow a parking cover two feet from the side property line where a five-foot setback is required. Staff recommended approval.

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<b><i>Most Recent Change of Ownership</i></b>	
12/09/03	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
1950	A 1,632 square-foot Residential Duplex was constructed.
07/01/83	A Business License (#Q01-00925) was issued for a Real Estate Firm. This license went inactive on 10/27/08.

<b><i>Pre-Application Meeting</i></b>	
08/11/10	A pre-application meeting was held to discuss the requirements for the conversion of an existing residential structure for a commercial occupancy.
03/21/11	Staff communicated with the applicant via email regarding potential additional landscaping. The submitted sketch showed additional plants within the encroachment area and did not specify size or type of plants. No formal landscape plans were submitted.

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

<b><i>Field Check</i></b>	
01/26/11	<p>Staff conducted a field check on the indicated date. The following items were noted:</p> <ul style="list-style-type: none"> <li>• The existing building is currently vacant, the entire site is paved with no parking stripes, and there is one mature Date Palm located at the corner of Santa Paula Drive and Oakey Boulevard.</li> <li>• There is a covered parking structure large enough for two standard parking spaces.</li> <li>• There are curbs cuts located on Oakey Boulevard and Santa Paula Drive.</li> <li>• There are currently two separate power meters for each residential unit.</li> </ul>

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.14

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<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	Apartments	C (Commercial)	R-4 (High Density Residential) [PROPOSED: P-R (Professional Office and Parking)]
North	General Retail	C (Commercial)	C-2 (General Commercial)
South	Offices	C (Commercial)	P-R (Professional Office and Parking)
East	Offices	H (High Density Residential)	P-R (Professional Office and Parking)
West	Offices	C (Commercial)	P-R (Professional Office and Parking)

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Master Plan Area</b>			
Beverly Green / Southridge Neighborhood	X		Y
<b>Special Purpose and Overlay Districts</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District	X		Y
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Las Vegas Redevelopment Plan Area</b>	X		Y
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08.050, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	60 Feet	70 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	5 Feet	5 Feet	Y
• Corner	15 Feet	25 Feet	Y
• Rear	15 Feet	5 Feet	N*

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Max. Lot Coverage	50 %	26 %	Y
Max. Building Height	Lesser of 2 stories or 35 Feet	12 Feet	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	No Trash Enclosure is shown	N
Mech. Equipment	Screened	Unscreened	N

\*The existing structure is legally nonconforming for rear yard setbacks.

**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 / 20 Linear Feet	2 Trees	0 Trees	N
• South	1 Tree / 30 Linear Feet	2 Trees	0 Trees	N
• East	1 Tree / 20 Linear Feet	3 Trees	0 Trees	N
• West	1 Tree / 30 Linear Feet	3 Trees	0 Trees	N
<b>TOTAL PERIMETER TREES</b>		<b>10 Trees</b>	<b>0 Trees</b>	<b>N</b>
<b>LANDSCAPE BUFFER WIDTHS</b>				
Min. Zone Width				
• North	15 Feet		0 Feet	N
• South	5 Feet		0 Feet	N
• East	15 Feet		0 Feet	N
• West	8 Feet		0 Feet	N

<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>
<i>Oakey Boulevard</i>	NA	N/A	80	NA
<i>Santa Paula Drive</i>	NA	N/A	50	NA

**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 Parking Ratio</b>	<b>Required</b>		<b>Provided</b>		<b>Compliance</b>	
			<b>Parking</b>		<b>Parking</b>			
			Regular	Handi-capped	Regular	Handi-capped		
Office, Other than Listed	1,632 SF	1:300 SF	6					
<b>TOTAL SPACES REQUIRED</b>			6		3			
<b>Regular and Handicap Spaces Required</b>			5	1	2	1	N	
Percent Deviation			50%					

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<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
A 15-foot wide landscape buffer along the north and east perimeter as required by Title 19.12.040(A).	No landscape buffer along the north and east perimeter.	Denial
An 8-foot wide landscape buffer along the south and west perimeter as required by Title 19.12.040(A).	No landscape buffer along the south and west perimeter.	Denial

<i>Exceptions</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
Refuse collection areas and dumpsters shall be provided in sufficient size and numbers to meet the needs of the development.	To allow curbside pick-up of refuse on a regular schedule.	Denial

**ANALYSIS**

The surrounding neighborhood land use has been transitioning from residential to commercial over the years, and the underlying C (Commercial) General Plan designation reflects this. Staff recommends approval of the requested rezoning because it is supported by the designated commercial land use. However, an approved Rezoning to the P-R (Professional Office and Parking) zoning district will only change the permitted uses and development standards; therefore, an approved Site Development Plan Review and subsequent completion of a building permit is the process for changing the existing building occupancy. The existing residential duplex, without any internal modifications to the building or any external modifications to the site, cannot operate in a suitable or code-compliant commercial manner in its current state.

The project is accompanied by a Variance to allow three parking spaces where six spaces are required. While public parking within the right-of-way is permissible, the parking spaces within the right-of-way cannot count towards the total number of parking spaces required for onsite parking at this site, as it may be taken away at any time. Three of the required six parking spaces are provided in the corner side yard of the property and are accessed from Santa Paula Drive. The result reflects a 50% reduction in the required parking. This Variance request does not meet the minimum requirements for a variance in that it is a self-imposed hardship. The applicant could provide additional spaces or offset the parking deficiency with shared parking agreements or offsite parking arrangements. Therefore, staff does not support the requested Variance as presented.

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The applicant is not proposing any changes to the existing structure or the site and has requested a Waiver to allow no perimeter landscape buffers along the north and east perimeters where 15 feet is required and along the south and west perimeters where eight feet is required. The one mature Date Palm located at the corner of Oakey Boulevard and Santa Paula Drive is within the public right-of-way. Alterations to the building and the site are strongly recommended in order to make the transition from the residential duplex to a professional office building more compatible with the surrounding neighborhood.

In addition to the requested Waiver, an Exception to Title 19.08.050(E)(4)(b) has been requested to allow no dedicated refuse collection area (trash enclosure). The applicant will be required to demonstrate that all refuse will be collected curbside on a regularly scheduled pick-up.

Because of the reluctance to make any significant improvements to the site, staff recommends denial of the Site Development Plan Review and accompanying Variance as requested. If denied, the property will retain the residential occupancy it currently maintains, but will not be allowed to be leased or occupied as a commercial property until a new Site Development Plan Review is approved and exercised.

**FINDINGS (ZON-40490)**

In order to approve a Rezoning application, pursuant to Title 19.18.040, the Planning Commission or City Council must affirm the following:

**1. The proposal conforms to the General Plan.**

The subject site currently maintains the MXU (Mixed Use) General Plan land use designation, which supports the requested P-R (Professional Office and Parking) zoning. Approval of the requested zoning change will change the permitted uses and development standards; however, an approved Site Development Plan Review will only be considered exercised upon the issuance of a building permit demonstrating appropriate building code compliance.

**2. The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.**

The proposed Office, Other than Listed use is permitted by right within the requested P-R (Professional Office and Parking) zoning district and is compatible with the adjacent P-R zoned properties to the west and south and the neighboring commercial uses to the north and east.

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**3. Growth and development factors in the community indicate the need for or appropriateness of the rezoning.**

The C (Commercial) land use and the ongoing transformation of the residential properties to office uses demonstrate the appropriateness for the requested Rezoning to the P-R (Professional Office and Parking) zoning district.

**4. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.**

Access to the site is provided by Oakey Boulevard and Santa Paula Drive. A cross-access agreement is in place to allow the utilization of the driveway on Oakey Boulevard on the adjacent property to the west. However, the primary access to the site is from Santa Paula Drive as the only suitable area for vehicular parking is located on the east side of the property.

**FINDINGS (VAR-40491)**

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.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by not providing any alterations to the site to accommodate the greater demand created by the requested conversion of a residential duplex to an Office building. Alternative site layouts and parking arrangements such as a shared parking agreement or an offsite parking arrangement would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, 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-40492)**

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 requested Rezoning (ZON-40490) to P-R (Professional Office and Parking) is suited for professional office development and these types of uses are anticipated by the General Plan. The residential architectural character of the neighborhood will be maintained to ensure the compatibility with the adjacent development in the area.

**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 site, with approval of a request to rezone the lot at 758 Oakey Avenue to P-R (Professional Office and Parking), will be in conformance with the existing C (Commercial) General Plan land use designation on the site. Waivers of perimeter landscaping buffers are required for approval of the site as proposed. Staff supports the requested request for Rezoning but does not support the Site Development Plan Review or Variance due to the lack of any mitigating design alternatives being presented.

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

Site access is provided via driveways along Santa Paula Drive and Oakey Boulevard. The parking will be accessed off of Santa Paula Drive and will not have a negative impact on the surrounding streets. There is a shared-access agreement in place with the western adjacent property to utilize the driveway along Oakey Boulevard; however, due to the proximity of the public right-of-way and the resulting depth of the front yard, onsite parking is severely limited, if not impossible, at the north end of the site.

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

There have been no proposed alterations to the existing building or site. The building materials are not appropriate as no improvements are proposed, and the existing structure is somewhat in disrepair. Landscaping materials cannot be considered appropriate as no new materials have been proposed and what is present is considerably deficient in amounts and size. The successful conversion of the existing residential duplex to an office building should incorporate moderate improvements to the building's appearance and the inclusion of landscaping at this time; therefore, staff recommends denial of this requested Site Development Plan Review.

**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;**

There are no proposed accommodations for commercial property other than what is currently provided for the residential duplex. Staff finds that the lack of any site or façade improvements provides little to support in the way of creating an orderly or aesthetically pleasing environment for a successful Office building conversion.

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

The proposed conversion of the existing residential duplex is subject to permit review and inspection. Appropriate measures must be met prior to the certification of building occupancy in order to protect the health, safety and general welfare.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 24

**NOTICES MAILED** 199

**APPROVALS** 2

**PROTESTS** 2