



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: JUNE 18, 2014

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: CARLOS AVEMARIA

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-53490	Staff recommends DENIAL, if approved subject to conditions:	N/A
SDR-53491	Staff recommends DENIAL, if approved subject to conditions:	VAR-53490

**** CONDITIONS ****

VAR-53490 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-53491) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. 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 Department of Building and Safety.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SDR-53491 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-53490) shall be required, if approved.
2. Conformance to the approved conditions for Site Development Plan Review (SDR-19330) and Special Use Permit (SUP-18744), except as amended herein.
3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All development shall be in conformance with the site plan, date stamped 05/28/14, landscape plan, date stamped 04/15/14, and building elevations and floor plan, date stamped 03/27/14, except as amended by conditions herein.
5. 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 Department of Building and Safety.
6. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
7. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

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Public Works

8. Sign and record a Covenant Running with Land agreement for the possible future installation of half-street improvements (including curb and gutter, sidewalks, streetlighting, permanent paving and possibly fire hydrants and sewers) on Marietta Avenue adjacent to this site prior to occupancy of this site.
9. Remove and replace all substandard public improvements, if any, adjacent to this site on Vegas Drive and replace with new improvements meeting current City Standards concurrent with on-site development activities. All existing paving damaged or removed by this development on shall be restored at its original location and to its original width concurrent with development of this site.
10. A deviation from Standard Drawing #222.1 is hereby approved as shown on the approved site plan. Any further deviations, if any, to width, ingress/egress radii, or throat depth will require separate approval from the City Engineer.
11. This site will be subject to the traffic signal impact fee as required by Ordinance No. 5644 at the time permits are issued.
12. Site Development to comply with all applicable conditions of approval for SDR-19330 and all other applicable site-related actions.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Major Amendment to Site Development Plan Review (SDR-19330) for a 1,321 square-foot unpermitted storage building to be permitted at 5200 Vegas Drive. The original Site Development Plan Review allowed for a 1,548 square-foot office building with Waivers to reduce or eliminate landscape buffer widths and quantity of vegetation. An accompanying side yard and residential adjacency setback Variance (VAR-53490) is required to allow the storage building to remain constructed nine feet from the property line where ten feet is the minimum required. An additional Variance is required to allow the existing trash enclosure to remain at its current location 28 feet from a residentially zoned property where 50 feet is required. The existing storage building does not conform to code and was constructed without permits; as such, staff recommends denial of the Site Development Plan Review (SDR-53491) and Variance (VAR-53490) applications. If these are denied, the existing storage building and trash enclosure will have to be removed or redesigned to conform to all code requirements.

ISSUES

- The existing non-permitted structure requires a Site Development Plan Review to proceed with the permitting process.
- A side yard setback and residential adjacency setback Variance is required to allow the reduced side yard setback of nine feet where ten feet is required.
- Conditions of Approval A, 6 and 7 from Rezoning (ZON-18773) and Condition of Approval 8 from Site Development Plan Review (SDR-19330) have not been met.
- A residential adjacency setback Variance is required to allow a trash enclosure to remain 28 feet from west property line where 50 feet is required when adjacent to residentially zoned properties.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
10/01/03	The City Council approved an Annexation [A-0022-01(A)] request of property described generally as located on the north side of Vegas Drive, approximately 735 feet east of Michael Way with the effective date of 10/10/03.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
06/06/07	The City Council approved a General Plan Amendment (GPA-18776) request from R (Rural Density Residential) to SC (Service Commercial), a Rezoning (ZON-18773) request from O (Office) and R-D (Single Family Residential – Restricted) to C-1 (Limited Commercial), a Site Development Plan Review (SDR-19330) for a 1,548 square-foot office development with Waivers to allow no perimeter landscape buffers along the east property lines and a portion of the west property line where eight feet is required and a four-foot wide perimeter landscape buffer along the south property line where 15 feet is required and a Special Use Permit (SUP-18774) for and Existing building Maintenance Service and Supply Establishment on 0.61 acres at 5200 Vegas Drive. The Planning Commission recommended approval.
12/03/13	A complaint (#135904) was filed with Code Enforcement for repairing big trucks and other vehicles starting at 5 a.m. and a large overflowing trash containers and a detached structure exists on site. The complaint has not been resolved.
05/13/14	The Planning Commission voted (5-1/VQ) to recommend APPROVAL of a Variance (VAR-53490) request to allow a nine-foot side yard setback and residential adjacency setback where 10 feet is the minimum required and to allow a trash enclosure zero feet from a residentially zoned property where 50 feet is the minimum required and voted (4-2/VQ, DB) to recommend APPROVAL of a Major Amendment to Site Development Plan Review (SDR-53491) for a proposed 1,321 square-foot building.

<i>Most Recent Change of Ownership</i>	
01/20/05	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
04/23/03	A business license (C25-01908) was issued for a Contractor. The license is active.
10/10/03	A business license (P50-00024) was issued for Professional Services. The license is active.
10/09/06	A building permit (#6006358) was issued for a Non-Work Certificate of Occupancy. The permit was finalized on 12/28/06.
12/21/10	A business license (R60-02535) was issued for Repair and Maintenance (Commercial). The license was marked out of business on 10/27/11.
07/24/12	A business license (C25-04269) was issued for a Contractor. The license is active.

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<i>Pre-Application Meeting</i>	
03/13/14	A pre-application meeting was held with the owner to discuss the following: The submittal requirements for a setback Variance and Site Development Plan Review for land use entitlements to start the permitting process for the non-permitted structure on site.

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

Field Check	
04/03/14	A field check was conducted of the subject property and revealed that the non-permitted structure exists and the property is utilized as a construction material service and repair yard.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.61

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Building Maintenance Service and Sales	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
South	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)
East	Social Service Provider	R (Rural Density Residential)	R-E (Residential Estates)
West	Single Family, Detached	RN (Rural Neighborhood) - Clark County	R-E (Rural Estates Residential) - Clark County

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Master Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Purpose and Overlay Districts	Compliance
A-O (Airport Overlay) District (105 Feet)	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to 19.08.070, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Setbacks			
• Front	10 Feet	105 Feet	Y
• Side	10 Feet	9 Feet	N
• Rear	20 Feet	110 Feet	Y
Max. Lot Coverage	50 %	11 %	Y
Max. Building Height	N/A	11Feet	Y
Trash Enclosure	Screened, Gated, w/ a Roof or Trellis	Not stated	Y*
Mech. Equipment	Screened	Screened	Y

*A condition of approval has been added to require the trash enclosure be constructed to Title 19 design requirements.

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
Adjacent development matching setback	10 Feet	9 Feet	N
Trash Enclosure	50 Feet	0 Feet	N

Pursuant to Title 19.08 and 19.12, 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	
Building maintenance Service and Sales	2,869 SF	1/300 SF	10				
TOTAL SPACES REQUIRED			10		12		Y
Regular and Handicap Spaces Required			9	1	11	1	Y

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<i>Previous Conditions of Approval not satisfied</i>			
<i>Case</i>	<i>Condition number</i>	<i>Condition</i>	<i>Compliance Y/N</i>
ZON-18773	A	The applicant must sign and record a covenant running with land agreement for the possible future installation of all half streets so deferred.	N
ZON-18773	6	Remove and replace all substandard public street improvements, if any, adjacent to this site on Vegas Drive and replace with new improvements meeting current City Standards concurrent with on-site development activities. 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. Coordinate with the Land Development section of the Department of Public Works to determine what improvements are substandard.	N
ZON-18773	7	This site will be subject to the traffic signal impact fee as required by Ordinance No. 5644 at the <i>time</i> permits are issued	N
SDR-19330	8	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 reflect the following changes. The trash enclosure shall be located a minimum of 50 feet from any property line of a protected property in accordance with 19.08.060G. The two accessory structures located in the undeveloped rear yard shall be located eight feet from the side yard setback in accordance with Title 19.08 setback standards for accessory structures.	N

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ANALYSIS

The subject site is located within the Southeast Sector Plan of the Las Vegas 2020 Master Plan on a 0.61-acre lot located at 5200 Vegas Drive. The site has an existing land use entitlement (SUP-18774) to allow a Building Maintenance Service and Sales use to be conducted within the C-1 (Limited Commercial) zoning district. This application will amend the previously approved Site Development Plan Review (SDR-19330) to allow an existing 1,321 square-foot storage building to be permitted within the required residential adjacency setback and side yard setback area. This application is also requesting to allow a trash enclosure to be located 28 feet from a residentially protected property where a 50-foot distance separation is required.

Title 19.18 defines a building as: “A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. Building includes structure.”

The existing structure consists of three cargo containers, stucco veneered columns and blue tarps. The applicant states in the justification letter that this is a shade structure. Title 19 does not define a shade structure; however, the manner in which the material has been assembled meets the definition of a building as defined by Title 19.18. The residential adjacency and building setback Variances are a direct result of the applicant constructing a building without permits.

Site Development Plan Review (SDR-19330) originally approved Waivers of the required landscape buffer widths to allow no perimeter landscape buffers along the east property lines and a portion of the west property line, where eight feet is required and a four-foot wide perimeter landscape buffer along the south property line where 15 feet is required. It also approved Exceptions to allow no parking lot landscape islands and vegetation and to allow the quantity and placement of flora in the current configuration. No additional landscape is required or proposed with this application, as the originally landscape buffers and landscape material have not been reduced in size or quantity.

Please note that Conditions of Approval A, 6 and 7 from Rezoning (ZON-18773) and Condition of Approval 8 from Site Development Plan Review (SDR-19330) have not been satisfied. Conditions of Approval A, 6 and 7 from Rezoning (ZON-18773) are Conditions of Approval 8, 9, and 10, respectively, for this application.

Condition of Approval 8 of (SDR-19330) required the trash enclosure to be relocated 50 feet from a protected property; however, the site is only 100 feet wide, which makes this condition impractical.

Variance (VAR-53490) was noticed with a zero-foot side yard setback where 50 feet is required for the trash enclosure; however, following the direction of the Planning Commission a meeting occurred on May 23, 2014 between staff and the applicant. The purpose of the meeting was to discuss the possible redesign of the site, as to allow an unimpeded 24-foot emergency access aisle throughout the side. After further review of the previously approved Site Development Plan

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Review (SDR-19330) by City Council on June 6, 2007, staff determined that the existing site conditions are to remain. Additionally, if the setback Variance is approved the trash enclosure proposed on along the east property line shall remain at the current location against the office building, 28 feet from the east property line. The applicant has submitted a revised site plan date stamped May 28, 2014, to reflect said changes.

The site is accessed from Vegas Drive, designated as a 80-foot right-of-way. The site has restricted vehicular access as noted above and a Condition of Approval has been added to improve site circulation.

In summation, the applicant has created a self-imposed hardship by constructing a commercial building without land use entitlements and building permits. Additionally, the built structure fails to meet code requirements. For these reasons, staff recommends denial of Site Development Plan Review (SDR-53491) and Variance (VAR-53490). If these applications are denied, the existing stucco, tarp and cargo container structure would have to be removed or relocated in a manner that conforms to code.

FINDINGS (VAR-53490)

In accordance with the provisions of Title 19.16.140(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 19.16.140(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.”

There are three Variances associated with this application. Sufficient evidence was presented to justify a residential adjacency setback Variance for the trash enclosure. The lot is 100 feet wide; however, after meeting with staff on May 23, 2014 it was determined the location of the existing trash enclosure 28 feet from the west property line has less of an impact on the surrounding residentially zoned property then a trash enclosure located on the east property line.

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As for the residential adjacency setback and side yard setback Variances for the storage building, no evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing a building within the required setback area without building permits. Alternatively, the building could be relocated one-foot to the east to 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-53491)

In order to approve a Site Development Plan application, per Title 19.16.100(E) 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;

Special Use Permit (SUP-18774) approves the use of Building Maintenance Service and Sales for this location; however, the locations of the structure and trash enclosure will intrude on the surrounding properties visually, audibly and possibly malodorously.

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 amendment does not meet Objective 2.2 of the Las Vegas 2020 Master Plan: "To ensure that low density residential land uses within mature neighborhoods can exist in close proximity to higher density residential, mixed-use, or non-residential land uses by mitigating adverse impacts where feasible." The required three setback Variances reinforces the unsuitability of the development, as it is not consistent with City plans and policies.

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

Site circulation does not meet the minimum City requirements, as a 24-foot drive aisle is not provided and a Public Works deviation from the standard ingress/egress radii, or throat depth accompanies this application.

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

No additional landscape is required for this application; however, the building elevations (exterior walls consisting of cargo containers, stucco columns and blue tarps) are not consisted with architectural character of the structure on site or the surrounding community.

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 proposed structure is utilitarian by nature and is screened by the existing structure and perimeter wall; however, the building is obnoxious in appearance and unsightly as the structure is void of any aesthetically pleasing elements.

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

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

NOTICES MAILED 366 (By City Clerk)

APPROVALS 0

PROTESTS 1