







# Memorandum

**Date:** June 22, 2017

**To:** SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

**From:** Jeremy Harper, REHS, Environmental Health Supervisor   
Paul Klouse, REHS, Environmental Health Manager   
Jacqueline Reszetar, REHS, Director of Environmental Health   
Joseph P. Iser, MD, DrPH, MSc, Chief Health Officer 

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**Subject:** Variance Request to Operate a Public Bathing Place not in Compliance with the Nevada Administrative Code (NAC) 444.134, 901 Fremont Development Partners LP, dba Fremont and 9<sup>th</sup> Apartments, located at 901 East Fremont Street, Las Vegas, Nevada 89101; [Assessor's Parcel Number (APN) 139-34-601-012] for Health Permit PR0120943, James Barger, for the Owner(s), 901 Fremont Development Partners LP.

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## I. BACKGROUND:

901 Fremont Development Partners LP, dba Fremont and 9<sup>th</sup> Apartments is petitioning for a variance as requested by James Barger of Pacific Custom Pools, representative for the owner, to operate a public bathing place not in compliance with the Nevada Administrative Code (NAC) 444.134(1), which states in part that: "*a clear, unobstructed deck must be provided around the entire perimeter of a pool. In no case may the width of the deck be less than 4 feet (1.2 meters).*" The public bathing place is located on APN 139-34-601-012, at 901 Fremont Street, Las Vegas, Nevada.

## II. DISCUSSION:

The petitioner is requesting a variance from NAC 444.134(1), which would allow them to construct a pool alongside a spa which are located on the third floor of the property in a structural vault. 50% of the spa perimeter deck is shared with the pool deck. Approximately 47% of the pool deck will be obstructed by the spa as well as adjacent planters.

The evidence presented for granting a variance to permit 901 Fremont Development Partners LP to deviate from NAC 444.134(1) by allowing a greater percentage of deck obstruction, is listed below.

The petitioner states the following in regard to this requirement:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation:

The spa is designed to be a 11'0" x 11' 10" - 44 Sq. ft. 3'6" deep spa installed alongside the pool in a structural vault. The pool is 71'3" x 26', 1,464 Sq. Ft.-3'6" to 4' deep, the spa will be flush with the surrounding deck that is 50% around its perimeter. The remaining 50% of the spa perimeter will have 2' decking shared with the pool, all deck elevations being at the same elevation, 6" about operating water level. The pool will have 47% of its deck obstructed by the spa and planters. The regulations governing decks around pools make up the following sections of the Nevada Administrative Code:

**NAC 444.134 Decks. (NRS 439.200, 444.070)**

1. Except as otherwise provided in this subsection and in NAC 444.196 and 444.1995, a clear, unobstructed deck must be provided around the entire perimeter of a pool. In no case may the width of the deck be less than 4 feet (1.2 meters). A deck may be obstructed for a distance equal to not more than 10 percent of the perimeter of the pool if:

(a) The design of the obstruction does not endanger the health or safety of persons using the pool;

(b) An unobstructed area of deck not less than 4 feet wide is provided around or through the obstruction not more than 15 feet (4.55 meters) from the edge of the pool; and

(c) Written approval for the obstruction is obtained from the health authority before construction or installation of the obstruction.

2. The paved area of the deck must extend not less than 4 feet (1.2 meters) from both sides and rear of any diving board or its appurtenances.

3. The surface of the paved deck must not drain into the pool or the overflow gutter. Drainage must be conducted from the deck in a manner that will not create muddy, hazardous or objectionable conditions. Decks must slope on a minimum slope of 1/4 inch per foot (2 percent) to the drains to points at which the water will have a free, unobstructed flow to points of disposal at all times. If deck drains are provided, they must be spaced or arranged so that not more than 400 square feet (37.2 square meters) of area is tributary to each drain and drains must not be more than 25 feet (7.6 meters) apart. Drainage from the decks must not be returned to the recirculation system.

4. The deck must have a slip-resistant surface that can be cleaned by hosing and causes no discomfort to bare feet.

5. Provision must be made to prevent the drainage of materials from lawns or landscaped areas onto the pool decks or into the pool.

[Bd. of Health, Public Bathing Places Reg. Art. 15, eff. 5-21-74] — (NAC A 11-1-88)

Granting a variance would involve NAC 444.134, dealing with a clear, unobstructed deck being provided around 90% of the pool. In this case the obstruction would be the attached spa and planters.

In review of the plans, the pool is easily accessible and the department can grant a variance under NAC 444.134(1)(c).

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant:

There is limited space in the downtown area for large apartment complexes to be built, especially if all the current expected amenities are included.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety:

There exist facilities that prove that granting this variance request would not be a substantial detriment to public welfare. Longtime locations that share a similar design include Wynn Resort and The Hard Rock Hotel Casino. All existing properties share a track record for continuous safe operations.

Allowing the pool and spa to be closer than the 4' regulation and allowing the planters and walls alongside the pool do not cause a safety hazard. This type of installation has been done many times and is a successful design.

### III. RECOMMENDATION:

1. With regard to a variance from NAC 444.134(1), deck obstruction, staff is of the opinion that circumstances exist which satisfy the requirements for a variance, and that granting a variance from this regulation will likely not be detrimental or pose an unreasonable danger to public health and safety. Staff recommends approval of a variance with the conditions outlined below.

### IV. CONDITIONS

1. The petitioner agrees to maintain the walkway area around the pool accessible and free from obstructions;
2. The petitioner agrees to adhere to all other applicable requirements of the Public Bathing Places Public Spas Regulations, NAC 444;
3. Failure of the petitioner to prevent public health and safety issues, as determined by the health authority, will result in the voiding of this variance;
4. This variance is automatically terminated without further notice upon the closing of any sale transaction involving the subject property, or upon petitioner leasing or assigning operation of these public bathing pools and spas to any other person or entity.

JH

Attachments:

- A. Nevada Secretary of State Corporate Information
- B. Variance Application Letter
- C. Assessor's Parcel Information
- D. Assessor's Map
- E. Public Notice

Attachment A: Nevada Secretary of State Corporate Information

## 901 FREMONT DEVELOPMENT PARTNERS, L.P.

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[\\$ Calculate List Fees](#)

### Business Entity Information

Status:	Active	File Date:	2/12/2016
Type:	Foreign Limited Partnership	Entity Number:	E0068712016-7
Qualifying State:	DE	List of Officers Due:	2/28/2018
Managed By:		Expiration Date:	
NV Business ID:	NV20161089670	Business License Exp:	2/28/2018

### Additional Information

Central Index Key:	
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### Registered Agent Information

Name:	CSC SERVICES OF NEVADA, INC.	Address 1:	2215-B RENAISSANCE DR
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89119
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active

[View all business entities under this registered agent](#)

### Financial Information

No Par Share Count:	0	Capital Amount:	\$ 0
No stock records found for this company			

<b>Officers</b>		<input checked="" type="checkbox"/> Include Inactive Officers	
General Partner - 901 FREMONT DEVELOPMENT PARTNERS GP, LLC			
Address 1:	6710 E. CAMELBACK RD., STE. 100	Address 2:	
City:	SCOTTSDALE	State:	AZ
Zip Code:	85251	Country:	USA
Status:	Historical	Email:	
General Partner - 901 FREMONT DEVELOPMENT PARTNERS GP, LLC			
Address 1:	6710 E. CAMELBACK RD., STE. 100	Address 2:	
City:	SCOTTSDALE	State:	AZ
Zip Code:	85251	Country:	USA
Status:	Active	Email:	

<b>Actions\Amendments</b>
<a href="#">Click here to view 3 actions\amendments associated with this company</a>

Attachment B – Variance Application Letter

VARIANCE REQUEST

Ms. Jacqueline Reszetar  
280 S Decatur Blvd  
Las Vegas, NV 89107

Re: Variance for Fremont and 9<sup>th</sup> Apartments  
901 East Fremont Street Las Vegas, NV 89101  
Assessor's Parcel Number (APN): 139-34-601-012

Fremont and 9<sup>th</sup> Apartments are located in downtown Las Vegas at 901 East Fremont Street Las Vegas, NV 89101, down the street from the Fremont Street experience. This facility consists of a new Pool and Spa area on the third floor above the parking garage. The Pool and Spa area sits in a structural reinforced vault, engineered to carry a restricted load. The Pool and Spa will be new, the work consisting of waterproofing under the Pool and Spa structures, PVC plumbing, reinforcing, a concrete shell finished with 6" waterline tile and white plaster. The deck around the Pool and Spa is a natural concrete.

With limited walking and deck space on this site, the logical place to install the Spa is alongside the Pool. Doing so comes with challenges including available deck space between the Pool and Spa. The common areas are limited by the number of Apartment units needed and the lot size available. The space to be used needs to include all the types of amenities a young professional would expect today in the Las Vegas market.

It is expected that renters will access to the local downtown area. The Fremont and 9<sup>th</sup> Apartments will cater to young 21 to 35 year old people working in downtown Las Vegas and seeking to enjoy the local lifestyle by walking to desired locations. The Pool and Spa area would be a necessary amenity for this Apartment to be successful. The pool area will provide an area for socializing right in the heart of the downtown Las Vegas area. We are excited to join in the downtown Las Vegas venue and hope the Southern Nevada Health District will support our design and grant us a variance.

Colleen Roque (croque@awolff.com)-Owners Representative  
901 Fremont Development Partners LP  
6701 East Camelback Road Suite 100  
Scottsdale, Arizona 85251  
489-315-9595

Attachment C: Assessor's Parcel Information

GENERAL INFORMATION	
<u>PARCEL NO.</u>	139-34-601-012
<u>OWNER AND MAILING ADDRESS</u>	901 FREMONT DEVELOPMENT PARTNERS L P %WOLFF CO %A OCHEL TREE & M HEAPE 6710 E CAMELBACK RD #100 SCOTTSDALE AZ 85251
<u>LOCATION ADDRESS</u> <u>CITY/UNINCORPORATED TOWN</u>	901 FREMONT ST LAS VEGAS
<u>ASSESSOR DESCRIPTION</u>	PT SE4 NE4 SEC 34 61 20 & PT NE4 SE4 SEC 34 61 20
<u>RECORDED DOCUMENT NO.</u>	* <a href="#">20151218:01745</a>
<u>RECORDED DATE</u>	Dec 18 2015
<u>VESTING</u>	NS
<u>COMMENTS</u>	+11A VAC 20160419:2255


\*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND VALUE EXCLUDED FROM PARTIAL ABATEMENT	
<u>TAX DISTRICT</u>	203
<u>APPRAISAL YEAR</u>	2016
<u>FISCAL YEAR</u>	2017-18
<u>SUPPLEMENTAL IMPROVEMENT VALUE</u>	0
<u>INCREMENTAL LAND</u>	0
<u>INCREMENTAL IMPROVEMENTS</u>	0

REAL PROPERTY ASSESSED VALUE		
<u>FISCAL YEAR</u>	2016-17	2017-18
<u>LAND</u>	381452	423836
<u>IMPROVEMENTS</u>	0	0
<u>PERSONAL PROPERTY</u>	0	0
<u>EXEMPT</u>	0	0
<u>GROSS ASSESSED (SUBTOTAL)</u>	381452	423836
<u>TAXABLE LAND+IMP (SUBTOTAL)</u>	1089863	1210960
<u>COMMON ELEMENT ALLOCATION ASSD</u>	0	0
<u>TOTAL ASSESSED VALUE</u>	381452	423836
<u>TOTAL TAXABLE VALUE</u>	1089863	1210960

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
ESTIMATED SIZE	1.75 Acres
ORIGINAL CONST. YEAR	0
LAST SALE PRICE MONTH/YEAR <u>SALE TYPE</u>	2500000 12/2015 R - Recorded Value
LAND USE	14.000 - Vacant - Commercial
DWELLING UNITS	0

PRIMARY RESIDENTIAL STRUCTURE					
1ST FLOOR SQ. FT.	0	CASITA SQ. FT.	0	ADDN/CONV	
2ND FLOOR SQ. FT.	0	CARPORT SQ. FT.	0	POOL	NO
3RD FLOOR SQ. FT.	0	STYLE		SPA	NO
UNFINISHED BASEMENT SQ. FT.	0	BEDROOMS	0	TYPE OF CONSTRUCTION	
FINISHED BASEMENT SQ. FT.	0	BATHROOMS	0	ROOF TYPE	
BASEMENT GARAGE SQ. FT.	0	FIREPLACE	0		
TOTAL GARAGE SQ. FT.	0				

ASSESSORMAP VIEWING GUIDELINES	
MAP	<a href="#">139346</a>
	<p>In order to view the Assessor map you must have Adobe Reader installed on your computer system.</p> <p>If you do not have the Reader it can be downloaded from the Adobe site by clicking the following button. Once you have downloaded and installed the Reader from the Adobe site, it is not necessary to perform the download a second time to access the maps.</p> 

Attachment D: Assessor's Map

**NOTES**

This map is for assessment use only and does NOT represent a survey.

No liability is assumed for the accuracy of the data delineated herein. Information on roads and other non-assessed parcels may be obtained from the Road Document Listing in the Assessor's Office.

This map is compiled from official records, including surveys and deeds, but only contains the information required for assessment. See the recorded documents for more detailed legal information.

**ASSESSOR'S PARCELS - CLARK CO., NV.**  
Michele W. Shafe - Assessor

**MAP LEGEND**

- PARCEL BOUNDARY
- SUB BOUNDARY
- PMAD BOUNDARY
- ROAD EASEMENT
- MATCH / LEADER LINE
- HISTORIC LOT LINE
- HISTORIC SUB BOUNDARY
- HISTORIC PMAD BOUNDARY
- SECTION LINE
- CONDOMINIUM UNIT
- AIR SPACE PCL
- RIGHT OF WAY PCL
- SUB-SURFACE PCL

001 ROAD / PARCEL NUMBER  
001 PARCEL NUMBER  
1.00 ACRES  
202 PARCEL SUBSEQ NUMBER  
PB 24-45 PLAT RECORDING NUMBER  
5 BLOCK NUMBER  
5 LOT NUMBER  
CL5 GOV. LOT NUMBER

**T20S R61E**

125	124	123
138	139	140
163	162	161
176	177	178

Scale: 1" = 200'

Rev: 3/16/2017


**34**

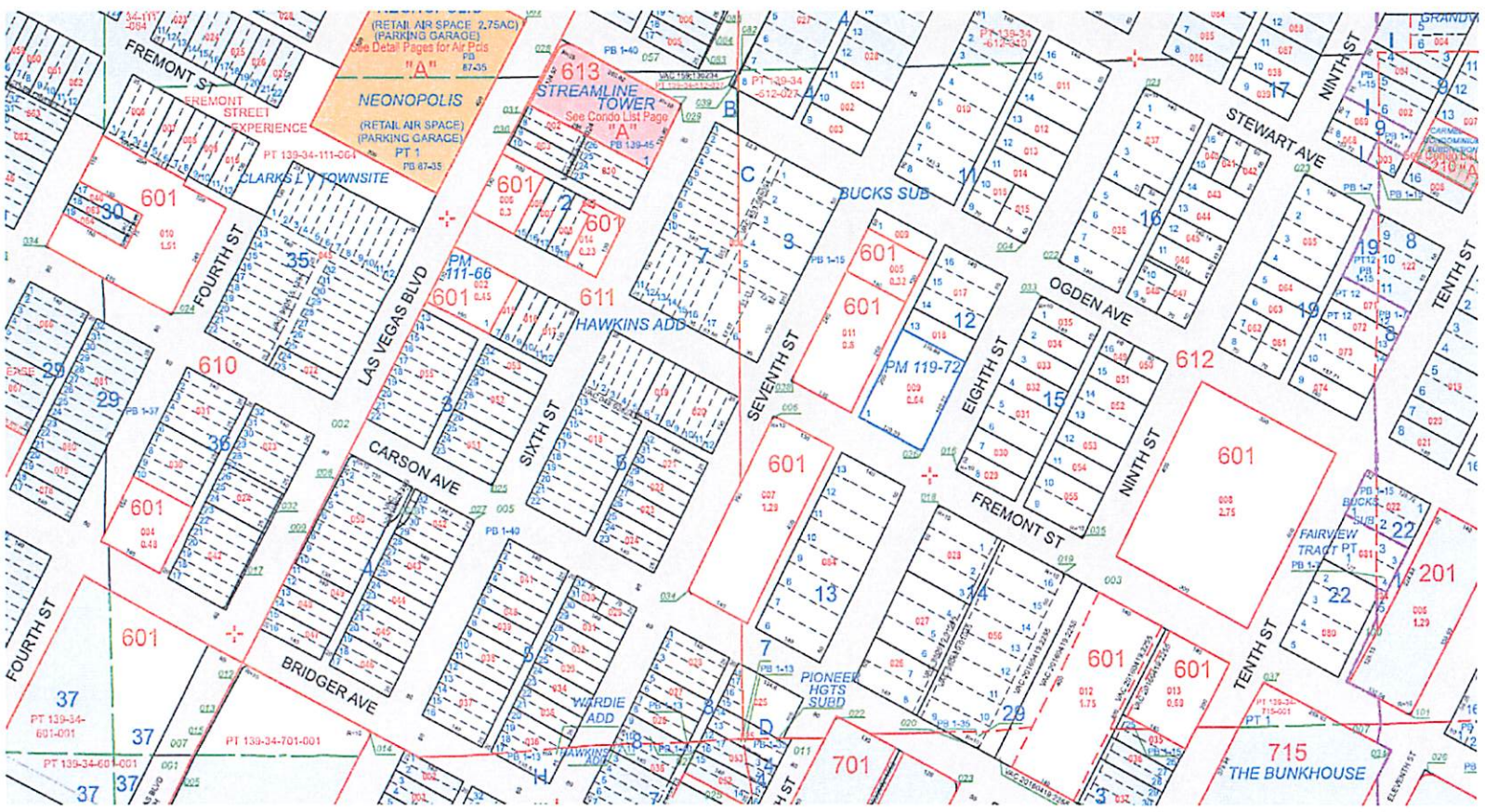
1	2	3	4
5	6	7	8
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29	30	31	32
33	34	35	36

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13	14	15	16
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21	22	23	24
25	26	27	28
29	30	31	32
33	34	35	36

**139-34-6**





TAX DIST 203

Attachment E: Public Notice



PUBLIC NOTICE

The Southern Nevada Health District Board of Health will conduct a PUBLIC HEARING on June 22, 2017, at 8:30 a.m. during its monthly meeting held at 280 South Decatur Boulevard, Las Vegas, NV 89107, to approve or deny a variance request to operate a public bathing place not in compliance for 901 Fremont Development Partners LP, DBA Fremont and 9<sup>th</sup> Apartments, located at 901 East Fremont Street, Las Vegas, Nevada 89101, APN 139-34-601-012. Note, if this application is not presented at the June 22, 2017 meeting, it will be presented at the July 27, 2017 meeting.

The variance request is made to allow the Petitioner to operate public bathing places which are not in accordance with the Nevada Administrative Code (NAC) 444 Public Bathing Places and Public Spas: NAC 444.134 Decks - deck obstruction.

Interested persons may appear at the public hearing and present their views thereon. Written comments received by June 16, 2017, will also be considered by the Southern Nevada Health District Board of Health. Comments must be forwarded to Jeremy Harper, Environmental Health Supervisor for the Aquatic Health Program, Southern Nevada Health District, P.O. Box 3902, Las Vegas, Nevada 89127-3902 or emailed to harper@snhdmail.org. The variance application request is available for review at the Southern Nevada Health District, Environmental Health Division, 333 North Rancho Drive, Las Vegas, NV 89106.

If there are special viewing needs, please contact Bonnie Archie at (702) 759-0571 to schedule an appointment to review the permit application during normal business hours of 8:00 a.m. to 4:00 p.m. Copies of the documents may be requested during that time for \$1.00 per page.

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-S-  
Jacqueline L. Reszetar, Environmental Health Director  
Southern Nevada Health District

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6/7/2017  
Date