



# Memorandum

**Date:** November 19, 2020

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

**From:** Robert Fyda, PE, REHS, *Environmental Health Engineer/Supervisor* RF  
Herbert Luis Sequera, REHS, *Environmental Health Manager* HLS  
Chris Saxton, MPH-EH, REHS, *Environmental Health Director* CS  
Fermin Leguen, M.D., MPH, *Acting Chief Health Officer* FL

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**Subject:** Variance Request for an Application to Construct a Septic System located at 4577 Yellow Pine Ave., Mount Charleston, Nevada with the following provisions: 1) allow installation of a septic system on an undersized lot; and 2) allow a reduced property line setback.

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## I. BACKGROUND:

Johnathan and Kristy Menser, Owners ("Petitioners"), are requesting a variance to permit and install an individual sewage disposal system (ISDS) on an undersized lot ("Subject Property") served by municipal water, located at Assessor's Parcel Number (APN) 129-36-510-020, also known as 4577 Yellow Pine Ave., Mt. Charleston, NV 89124.

Petitioners request a variance from Section 5.1 of the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management* ("SNHD ISDS Regulations"), which states that "no septic tank or soil absorption system shall be located within ten feet (10') of any property line." Petitioner proposes reducing this setback to five feet (5').

Petitioners further request a variance from Section 11.20.2 of the SNHD ISDS Regulations, which requires a minimum lot size of 0.25 acre for the installation of an ISDS on a lot served by municipal water. The Subject Property has an area of approximately 0.06 acres.

The petitioner states the following with regards to these requirements:

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

*"The existing SFR [single-family residence] is connected to an unpermitted system, and is considered not legal per SNHD Regulations. Current system also does not comply with the required setbacks."*

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. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

*"This SFR could not be sold under its current condition of the waste disposal being utilized. This property has no record of ever having a legal permitted/inspected system."*

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:

*"The variance approval and installation of a new septic system will allow the current residence the ability to use and maintain a modern-legal approved ISDS. This will also increase the value of the residence."*

## **II. RECOMMENDATION:**

The Subject Property is depicted in Attachment D as Lot 18 of Group 1 of the unrecorded subdivision Charleston Park Resort, which is not recorded in County records. There is one existing well located upgradient and within six hundred feet (700') of the proposed ISDS. The Subject Property is also located in an area with a high density of existing ISDS; there are 204 lots with an active, traceable ISDS permit within one square mile of the property boundaries (see attached ISDS Density Map).

The Subject Property has an area of approximately 0.06 acres, which is smaller than the minimum lot size of 0.25 acres required by the SNHD ISDS Regulations. Lot size variances have been approved for other properties in the unrecorded Charleston Park Resort subdivision, many of which also had an area of 0.06 acres. The proposed ISDS will be five feet (5') from the closest property line, where ten feet (10') minimum separation is required by the SNHD ISDS Regulations. A five-foot (5') property line setback has been approved for other undersized lots in Mount Charleston.

Staff is of the opinion that granting the variance would not endanger public health or safety. Staff recommends approval of the variance. If the Board of Health approves the variance, staff recommends approval with the following conditions outlined in Section III.

**III. CONDITIONS:**

1. The applicants and their successor(s) in interest shall abide by all local governmental regulations requiring connection to community sewage systems. Use of the ISDS shall be discontinued and the structure it serves shall be connected to any community sewage system constructed in the future to within four hundred feet (400') of the applicants' property line when connection can be made by gravity flow and the owner(s) are notified and legally required to do so.
2. The applicants and their successor(s) will abide by the operation and maintenance requirements of the most current SNHD regulations governing individual sewage disposal systems.
3. Construction of the ISDS must be commenced within one (1) year of the date hereof. If the construction has not been commenced within that period, this variance shall automatically expire and be of no further force and effect, unless application is made and approved for an extension of time prior to the expiration date by the applicants or the applicants' successor(s) in interest.

**Attachments:**

- A. Authorization Letter
- B. Variance Candidate Application
- C. Justification Letter from the Petitioner
- D. Assessor's Parcel Map
- E. Proposed ISDS Plan
- F. Cone of Influence Letter
- G. Percolation Test
- H. ISDS Density Map
- I. Public Notice

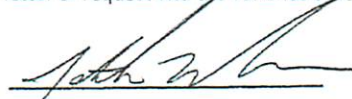
Attachment A: Authorization Letter

Authorization Letter

September 22, 2020

Southern Nevada Health District  
280 S. Decatur Blvd.  
Las Vegas, NV 89107

I, Johnathan Menser, do hereby authorize Hardin & Sons to make application for a septic system variance in the matter of 4577 Yellow Pine Ave., Las Vegas, NV Assessor's Parcel Number 129-36-510-020. Also, in the event that I cannot be present at the October 2020 Southern Nevada District Board of Health meeting, Hardin & Sons is authorized to speak on my behalf. However, we understand that both of us must sign both the letter of request and the variance order.

  
(Owner)

State of: Nevada  
County of: Clark

On 9/22/20, before me, Deborah Valdez-Gaudet  
(notary)

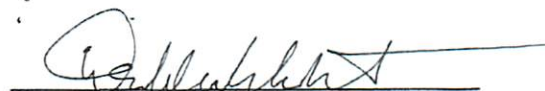
Personally appeared, Johnathan Menser  
(signers)

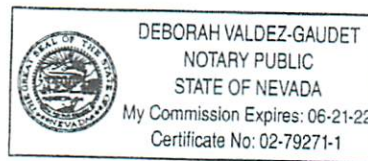
Personally known to me

OR

Proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and has hereby acknowledged to me that he/she/they have executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal

  
Notary Signature



Deborah Valdez Gaudet  
Print Name



VARIANCE CANDIDATE WORKSHEET

PART I:

ESTABLISHMENT INFORMATION

Name of Facility/Establishment: JOHNATHAN + KRISTY MENSER  
Health Permit Number: NONE Date of Inquiry: \_\_\_\_\_  
Name of Operator/Agent: HARDIN + SONS INC.  
Address of Operator/Agent: 201 W. CHEYENNE AVE. NV NV 89030  
Contact Information of Operator/Agent:  
Office Phone: 702-399-3878 Cell Phone: 702-379-9156  
Fax Number: 702-399-2032 Email Address: hardin.sons@gmail.com  
If corporation, the name/title of individual to sign for Variance document:  
Name: DALE MARTIN  
Title: President HARDIN + SONS INC.

OWNER INFORMATION

Name of Property Owner: JOHNATHAN + KRISTY MENSER  
Address of Property Owner: 10208 DESERT WIND DR. LV NV 89144  
Contact Information of Property Owner:  
Office Phone: \_\_\_\_\_ Cell Phone: 360-509-7185  
Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

PROPERTY INFORMATION

Property Address: 4577 YELLOW PINE AVE.  
Assessor's Parcel Number (APN): 129-36-510-020  
Describe location within larger facility (i.e. hotel/casino/resort, etc.):  
SFR ONLY  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe Variance Issue (s): (Include sections of the Regulation or Nevada Administrative Code that applies to the request for a variance)

REGULATION 5.1 WE WILL NEED TO USE A 5' SETBACK FOR ISDS TO PROPERTY LINE WHERE A 10' SETBACK IS NORMALLY REQUIRED.  
REG. 11.20.2 THIS PROPERTY HAS A TOTAL COMBINED SQUARE FOOTAGE OF 2500 S.F. WHERE THE MINIMUM REQUIRED IS 10,900 SF. INCLUDING ALL RIGHT OF WAYS. PROPERTY IS ON MUNICIPAL WATER.  
REG. 2.1 STRUCTURE HAS AN EXISTING UNPERMITTED SYSTEM.

Attachment B: Variance Candidate Application (Page 2 of 3)

PART II:

Nevada Administrative Code 439.240 states in general that certain conditions or circumstances must be shown to exist in order for a Board of Health to approve a request for a Variance from adopted public health regulations. A variance application letter (as noted below in PART III) MUST specifically address each of the following issues:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation. Please indicate how your request is unique to your situation and is, therefore, not likely to affect other persons subject to the regulations:

THE EXISTING SFR IS CONNECTED TO AN UNPERMITTED SYSTEM, AND IS CONSIDERED NOT LEGAL PER SNHD REGULATIONS. CURRENT SYSTEM ALSO DOES NOT COMPLY WITH THE REQUIRED SETBACKS.

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. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

THIS SFR COULD NOT BE SOLD UNDER ITS CURRENT CONDITION OF THE WASTE DISPOSAL BEING UTILIZED. THIS PROPERTY HAS NO RECORD OF EVER HAVING A LEGAL PERMITTED/INSPECTED SYSTEM.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:

THE VARIANCE APPROVAL AND INSTALLATION OF A NEW SEPTIC SYSTEM WILL ALLOW THE CURRENT RESIDENCE THE ABILITY TO USE AND MAINTAIN A MODERN-LEGAL APPROVED ISDS. THIS WILL ALSO INCREASE THE VALUE OF THE RESIDENCE.

Attachment B: Variance Candidate Application (Page 3 of 3)

**NAC 439.240 Approval by State Board of Health. (NRS 439.150, 439.190, 439.200)**

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
  - (a) There are circumstances or conditions which:
    - (1) Are unique to the applicant;
    - (2) Do not generally affect other persons subject to the regulation;
    - (3) Make compliance with the regulation unduly burdensome; and
    - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
  - (b) Granting the variance:
    - (1) Is necessary to render substantial justice to the applicant and enable the applicant to preserve and enjoy his or her property right; and
    - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he or she suffers or will suffer economic hardship by complying with the regulation, the applicant must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable.

[Bd. of Health, Variances Reg. §§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]

**PART III:**

A **Variance Application Letter**, which includes all information provided by the applicant on his worksheet, must be submitted in writing to the Environmental Health Division (EHD) Director no later than 40 days before the monthly Board of Health Meeting. **The Application letter must be on the owner's letterhead signed by the Owner/Corporate Officer specifically listing which part(s) of the Regulation the proposed Variance covers with this completed Worksheet as an attachment. The written Application Letter must take particular care in providing statements and evidence of circumstances or conditions and reasons why the District Board of Health should grant the Variance as listed in NAC 439.240 as shown at the top of this page. ALL information you have provided in PART I and II of this Worksheet must be included in the body of the letter.** The evidence required may include 8 1/2" x 11" or 11" x 17" detailed drawings and/or photographs.

The Variance process is outlined in Nevada Administrative Code (NAC) 439.200 through 439.260 with the exception that an application fee is payable to SOUTHERN NEVADA HEALTH DISTRICT (SNHD).

**This section to be completed by SNHD staff ONLY**

Next closing date is: \_\_\_\_\_ for the \_\_\_\_\_ BOH Meeting.

Referred by: \_\_\_\_\_

(Print Name of REHS)

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

(Print Name of REHS if not by supervisor)

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

(Owner/Operator/Agent)

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

(Signature of SNHD Manager)

Attachment C: Justification Letter from Petitioner

Justification/Hardship Letter

September 22, 2020

To: Southern Nevada Health District  
280 S. Decatur Blvd  
Las Vegas, NV 89107

From: Johnathan Menser  
RE: Parcel # 129-36-510-020

To whom it may concern:

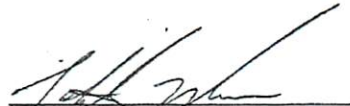
I hereby make application and petition the Southern Nevada District Board of Health for a variance to the Regulations Governing Individual Sewage Disposal and Liquid Waste Management Sections 11.20.2, requiring a minimum of one fourth (1/4) acre (10,900 sq. ft.) for the installation of an individual sewage disposal system (ISDS) on a lot served by an off-site water supply; and Section 5.2, requiring that no septic tank be within 8' of a building or a deep absorption field be located within 20' of a building without a Cone of Influence letter submitted by a State of Nevada registered professional engineer; and Section 5.1, requiring that no septic tank or leach field be within 10' of a property line.

This variance request is made to permit construction of an ISDS on a lot 2,500 sq. ft. The septic tank is to be located 5 ft. from the proposed structure and no closer than 5 ft. from the nearest property line.

The legal description of said property is APN# 129-36-510-020, further described as Charleston Park Resort (UNREC) Plat book 9999, Page 1, Lot 18, Group 1.

I have owned the property since March 18, 2020 and wish to apply for this variance.

Thank you for your consideration,



Johnathan Menser



Attachment D: Assessor's Parcel 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. The Assessor's Office may be contacted for more information regarding this map.

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.

**MAP LEGEND**

- Parcel Boundary
- Sub Boundary
- Field Boundary
- Match Line
- Historic Lot Line
- Historic Sub Boundary
- Historic Field Boundary
- Section Line
- Condominium Unit
- 4th Space Incl
- Right of Way PCL
- Sub-Surface PCL
- 1.00 Acreage
- 200' Parcel Sub-ISO Number
- 2-4-10 Plat Recording Number
- Block Number
- Lot Number
- Gov. Lot Number

**ASSessor's PARCELS - CLARK COUNTY, NV.**  
 Briana Johnson - Assessor

129-36-5

N 2 NE 4

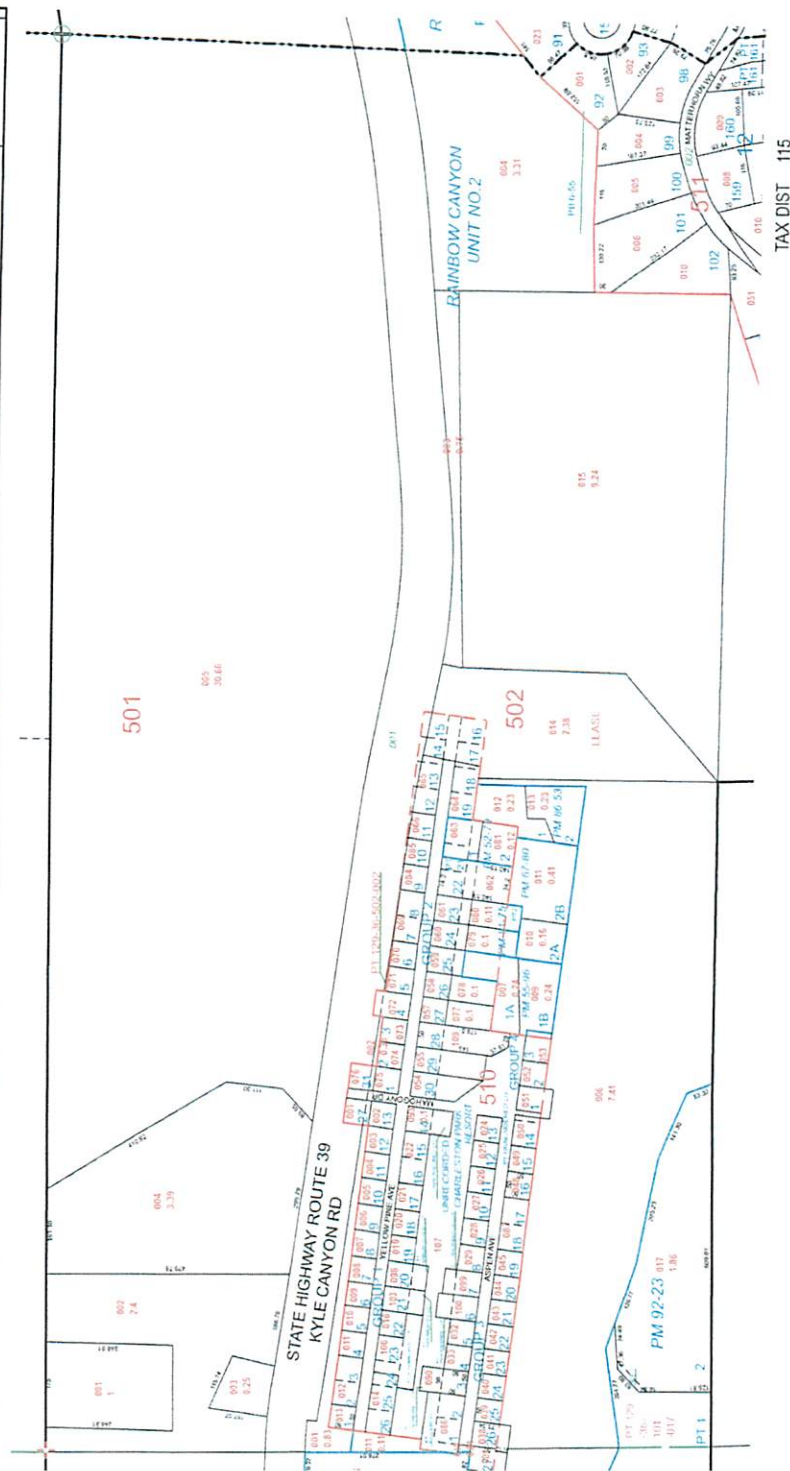
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T19S R56E

895 086 097 091  
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 168 167 166 3M

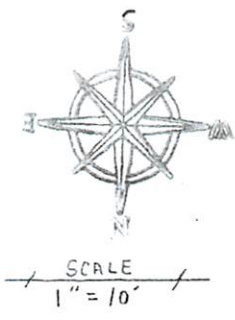
Scale: 1" = 200'

Rev: 5/16/2019

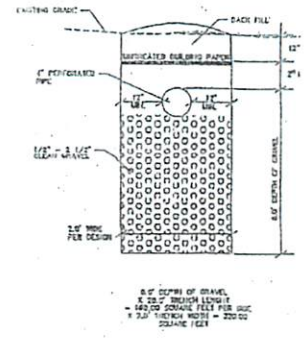
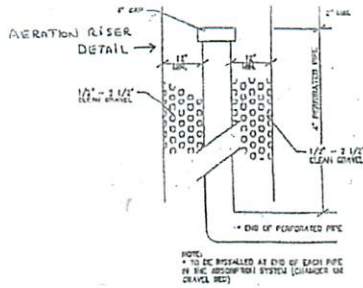


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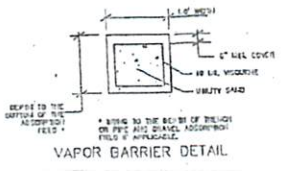
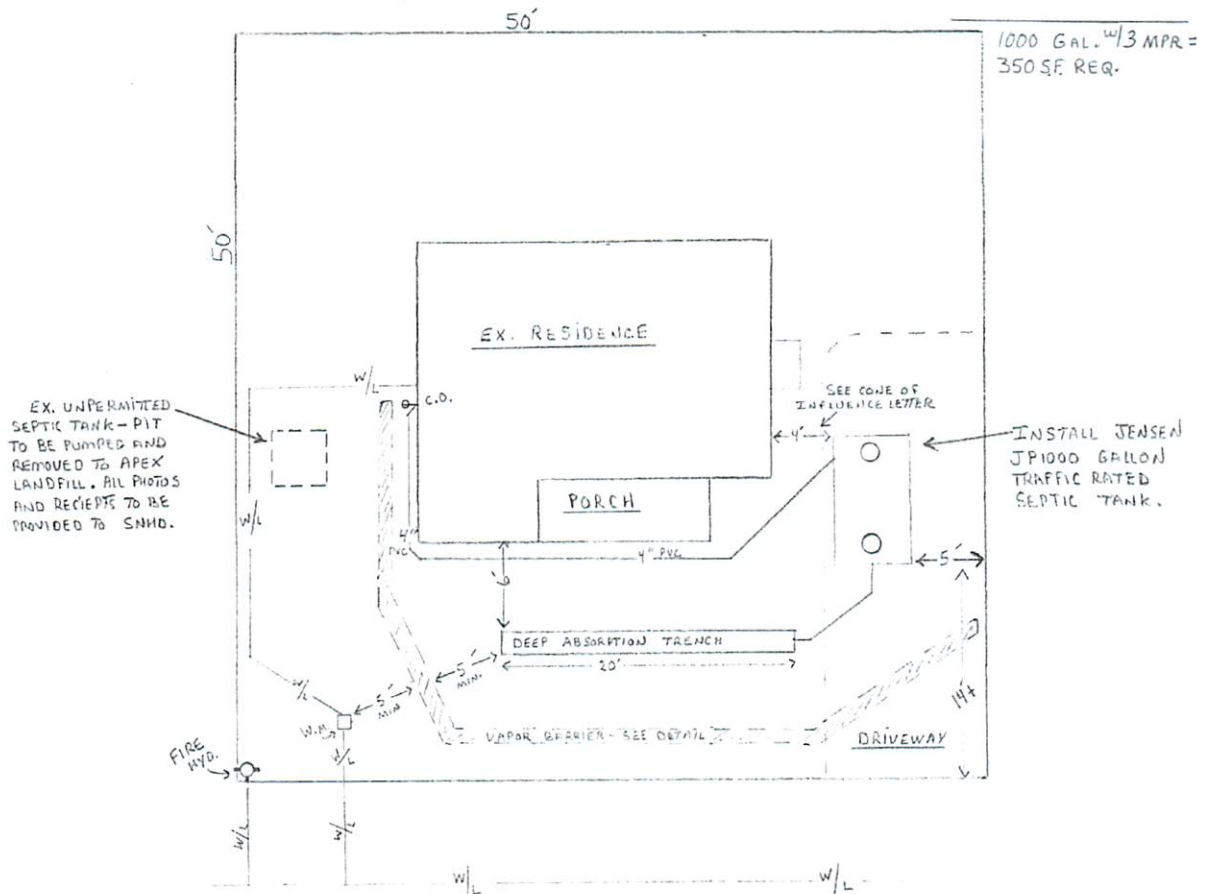
Attachment E: Proposed ISDS Plan (Page 1 of 2)



4577 YELLOW PINE AVE.  
APN # 129-36-510-020



DETAIL DEEP ABSORPTION TRENCH



YELLOW PINE AVE.



Attachment F: Cone of Influence Letter

# DLC Consulting

September 28, 2020

Hardin Excavating  
2010 Cheyenne Avenue  
Las Vegas, Nevada

Attention: Dale Martin

Subject: Cone of Influence Review for The Single-Family Residence Located at  
4577 Yellow Pine Av. Mount Charleston, Nevada.  
RE: Percolation Test for The Single-Family Residence Located at  
4577 Yellow Pine Ave. Mount Charleston, Nevada.

Mr. Martin:

DLC has reviewed the referenced data and found that The Site is occupied by a Single-Family Residence which is underlain by free-draining sands and gravels to the maximum exploration depth of 15 feet below grade. Based on this review, assessment of the Sites existing and proposed structures, and design of the deep Septic Tank/Field system, DLC has evaluated the proposed placement of the deep Septic System. DLC believes that placement of the deep Septic System trench 6 feet from the existing or proposed structures and the Septic Tank 4 feet from existing or proposed structures will not impact the structural envelope of the Site structures (existing or proposed) nor will the Site structures (existing or proposed) impact operation of the deep Septic System.

DLC be is grateful for the opportunity to provide this report and welcomes any questions or comments regarding this report that may arise.

Sincerely,  
DLC Consulting.



Michael W. Payne, C.E.M.  
Principal Scientist



Landon Christopherson, P.E.  
Project Engineer

# DLC Consulting

September 28, 2020

Hardin Excavating  
2010 Cheyenne Avenue  
Las Vegas, Nevada

Attention: Dale Martin

RE: Percolation Verification Test for The Single Family Residence Located at 4577  
Yellow Pine, Mount Charleston, Nevada.

Mr. Martin:

Following is the Percolation Verification Test for the referenced location. Field work was conducted by DLC Consulting in accordance with Southern Nevada Health District guidelines.

Based on the field data, percolation rates are approximately 3 minutes/inch based on a 10 minute test interval; 30 minute interval is not applicable on this site. Soil data from the test pits indicates the presence of gravels and cobbles with sands and silt.

DLC is grateful for the opportunity to provide this report and welcomes any questions or comments regarding this report that may arise.

Sincerely,

DLC Consulting.

Michael W. Payne, C.E.M.  
Principal Scientist



Landon Christopherson, P.E.  
Project Engineer

## Attachment G: Percolation Test (Page 2 of 5)

Perc Test  
Hardin

September 28, 2020  
4577 Yellow Pine

### PERCOLATION TEST RESULTS

Test Pit TP-1

Project Name: 4577 Yellow Pine

Project Location: 4577 Yellow Pine  
Mount Charleston, Nevada

Test Location: See Plan Map

Test Performed By: Michael Payne C.E.M.

Test Reviewed By: Landon Christopherson, P.E.

Date of Test: September 28, 2020

Borehole Diameter: 6 inches

Borehole Depth: 36 inches

Time of Presoaking: NA

Depth of Water at beginning of test: 30 inches

Time of Reading	Time Difference (1)	Depth Water to	Depth Difference (2)	Percolation Rate (1)/(2)	Comments
08:00	0	30"	----	-----	Begin Test
08:10	10 min	34"	4.0	2.5	
08:10	0 min	30"	0		Refill
08:20	10 min	34"	4.0	2.5	
08:20	0	30"	0		Refill
08:30	10 min	33.57"	3.57	2.8	
08:30	0	30"	0		Refill
08:40	10 min	33.57"	3.57	2.8	
08:40	0	30.0	0		Refill
08:50	10 min	33.45"	3.45	2.9	
08:50	0	30.0	0		Refill
09:00	10 min	33.45"	3.45	2.9	
09:00	0 min	30"			Refill
09:10	10 min	33.45"	3.45	2.9	

**Soil Data:**

Cobbles with gravelly and sands to the maximum boring depth of 15 feet below grade. Soils drained freely from surface. Complete soil borings are attached.

## Attachment G: Percolation Test (Page 3 of 5)

Perc Test September 28, 2020  
 Hardin 4577 Yellow Pine

Test Pit TP-2

Project Name: 4577 Yellow Pine  
 Project Location: 4577 Yellow Pine  
 Mount Charleston, Nevada  
 Test Location: See Plan Map  
 Test Performed By: Michael Payne C.E.M.  
 Test Reviewed By: Landon Christopherson, P.E.  
 Date of Test: September 28, 2020  
 Borehole Diameter: 6 inches  
 Borehole Depth: 126 inches  
 Time of Presoaking: NA  
 Depth of Water at beginning of test: 114 inches

Time of Reading	Time Difference (1)	Depth Water to	Depth Difference (2)	Percolation Rate (1)/(2)	Comments
08:02	0	114"	----	-----	Begin Test
08:12	10 min	118.0"	4.0	2.5	
08:12	0 min	114"	0		Refill
08:22	10 min	118.0"	4.0	2.5	
08:22	0	114"	0		Refill
08:32	10 min	117.7"	3.7	2.7	
08:32	0	114"	0		Refill
08:42	10 min	117.7"	3.7	2.7	
08:42	0	114.0	0		Refill
08:52	10 min	117.57"	3.57	2.8	
08:52	0	114.0	0		Refill
09:02	10 min	117.57"	3.57	2.8	
09:02	0 min	114"	0		Refill
09:12	10 min	117.57"	3.57	2.8	

**Soil Data:**

Cobbles with gravel and sands to the maximum boring depth of 15 feet below grade. Soils drained freely from surface. Complete soil borings are attached.

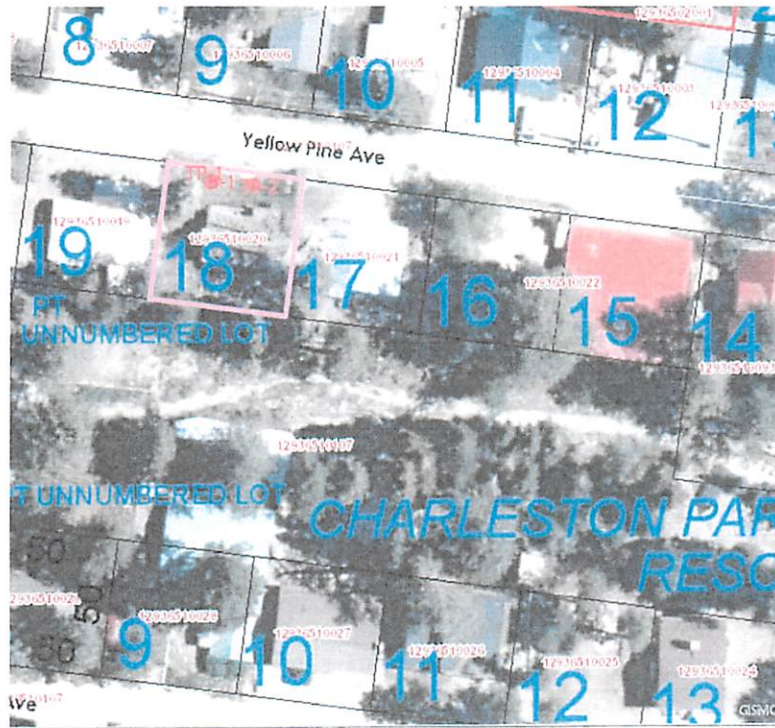
Attachment G: Percolation Test (Page 4 of 5)

Client: Hardin  
 Project: 4577 Yellow Pine  
 Test Pit: 1

a. Depth/Feet					DLC No.051245	Date: 9/28/2020	
b. Sample Type					Elevation	Existing Grade	Datum: Existing
c. Moisture					Equipment: Mayhew 600	Operator: Evans	
d. Density					Groundwater: None		
e. USCS Class.							
a	b	c	d	e	SOIL DESCRIPTION		
1	Bulk	Slight	Loose Med	GM	Gravel with Sand and Cobbles, brown,slightly moist.		
2							
3							
4							
5							
6							
9			Med.				
11							
13					No Cemented Materials Encountered		
15					Total Depth 15 feet, no groundwater.		



Attachment G: Percolation Test (Page 5 of 5)



ardin Excavating September 28, 2020 4577 Yellow Pine, Mt. Charleston

ercolation Test Location TP-1

oring Location B-1

orth is Top Of Page

## Attachment H: ISDS Density Map



There is one existing well located upgradient and within six hundred feet (700') of the proposed ISDS. The Subject Property is also located in an area with a high density of existing ISDS; there are 204 lots with an active, traceable ISDS permit within one square mile of the property boundaries.

Attachment I: Public Notice



PUBLIC NOTICE

The Southern Nevada District Board of Health will conduct a PUBLIC HEARING on Thursday, November 19, 2020 at 9:00 AM during its regular monthly meeting in the Red Rock Conference Room at the Southern Nevada Health District at 280 S. Decatur Blvd., Las Vegas, Nevada, to approve or deny a variance request filed by Johnathan and Kristy Menser ("Petitioners"), to permit and install a new individual sewage disposal system on the property located at 4577 Yellow Pine Ave., Mt. Charleston, NV 89124, APN 129-36-510-020.

The variance request is made to allow the Petitioner to permit the installation of a conventional septic system not in accordance with the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management*. The variance will allow the Petitioner to 1) install a septic system on an undersized lot; and 2) allow a reduced property line setback.

All interested persons may appear at the hearing and state their positions. All written and oral submissions will be considered by the Southern Nevada District Board of Health. Written comments must be forwarded by November 18, 2020 to:

Robert Fyda, P.E., REHS  
Environmental Health Engineer/Supervisor  
Southern Nevada Health District  
P.O. Box 3902  
Las Vegas, Nevada 89127  
fyda@snhd.org

The variance application is available for review at the Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas, Nevada 89107. Please contact Mallory Jett-Edwards at (702) 759-0660 to schedule an appointment to review the application during the normal business hours of 8:00 AM to 4:30 PM.

- S -

Chris Saxton, MPH-EH, REHS  
Environmental Health Director

October 29, 2020

Date