

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 6, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-14193 - APPLICANT/OWNER: RONALD J. WALKER

**** CONDITIONS ****

The Planning Commission (6-1/gt vote) and staff recommend DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-14192) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

APPLICATION REQUEST

This is an appeal filed by the applicant from the denial by the Planning Commission of a request for a Variance to allow a proposed non-habitable accessory structure to be four feet taller than the main dwelling on 0.54 acres at 1295 South Tenaya Way.

EXECUTIVE SUMMARY

The height requirement for a non-habitable accessory structure stipulates that its height shall not exceed the height of the main structure. The applicant is proposing a twenty-four foot tall non-habitable accessory structure where the main structure is twenty feet tall.

This Variance request cannot be supported as the applicant has created a self-imposed hardship by attempting to overbuild the site. Redesign of the non-habitable accessory structure would allow for conformance to the height limitations imposed by Title 19.

BACKGROUND INFORMATION

A) Related Actions

10/26/98 City Council approved a request to amend a portion of the Southwest Sector of the General Plan (GPA-0027-98) on properties bounded by Holmby Channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, From R (Rural Density Residential) to DR (Desert Rural Density Residential).

05/17/06 City Council approved a petition to Vacate (VAC-11873) a 30-foot public right-of-way located at the southwest corner of Holmby Avenue and Tenaya Way. Staff and Planning Commission recommended Approval.

11/02/06 The Planning Commission recommended denial of companion item SUP-14192 concurrently with this application.

The Planning Commission voted 6-1/gt to recommend DENIAL (PC Agenda Item #29/jm).

B) Pre-Application Meeting

06/07/06 At the pre-application meeting, the applicant was informed of the requirements in Title 19.08 that require an accessory structure to be lower in height than the main building, or the application requires a Variance and Special use Permit.

C) Neighborhood Meetings

A neighborhood meeting was not held, nor is one required for this application.

DETAILS OF APPLICATION REQUEST

A) Site Area

Net Acres: 0.54 acres

B) Existing Land Use

Subject Property: Single Family Residential

North: Office

South: Single Family Residential

East: Single Family Residential

West: Single Family Residential

C) Planned Land Use

Subject Property: DR (Desert Rural Density Residential)

North: O (Office)

South: DR (Desert Rural Density Residential)

East: DR (Desert Rural Density Residential)

West: DR (Desert Rural Density Residential)

D) Existing Zoning

Subject Property: R-E (Residence Estates)

North: P-R (Professional Office & Parking)

South: R-E (Residence Estates)

East: R-E (Residence Estates)

West: R-E (Residence Estates)

E) General Plan Compliance

The subject site is located within the Southwest Sector of the Master Plan with a DR (Desert Rural Density Residential) designation, which allows for residential development with up to 2.49 units per acre. The existing R-E (Residence Estates) Zoning District is consistent with the Master Plan, while the Variance (VAR-14193) and Special Use Permit (SUP-14192) are requested because the proposed non-habitable accessory structure does not comply with all provisions of Section 19.08.040.

SPECIAL DISTRICTS/ZONES	Yes	No
Special Area Plan		X
Special Overlay District		X
Trails		X
Rural Preservation Neighborhood		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

A) Zoning Code Compliance

A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required	Requested	Compliance
Min. Lot Size	20,000	23,522 Feet	Y
Min. Setbacks			
• Side	3 Feet	13 feet	Y
• Rear	3 Feet	10 feet	Y
• From House	6 Feet	16 feet	Y
Max. Building Height	20 Feet	24 Feet	N*

Per 19.08.040, the height of the non-habitable accessory structure shall not exceed the height of the main structure. The applicant is proposing a twenty-four foot tall non-habitable accessory structure where the main structure is twenty feet tall.

*Special Use Permit (SUP-14192) required.

B) General Analysis and Discussion

Per 19.08.040, the height requirement for a non-habitable accessory structure stipulates that its height shall not exceed the height of the main structure. The applicant is proposing a twenty-four foot tall non-habitable accessory structure where the main structure is twenty feet tall.

Per 19.08.040, the total floor area of all accessory structures shall not exceed fifty percent of the floor area of the principal dwelling unit constructed on the same lot. The principal dwelling is 3,226 square feet. The proposed accessory structure is 2,475 square foot which exceeds fifty percent of the floor area of the principal dwelling by 862 square feet, a 55 percent deviation.

This Variance request cannot be supported as the applicant has created a self-imposed hardship by attempting to increase the height of the non-habitable structure. Redesign of the non-habitable structure would allow for conformance to the height limitations imposed by Title 19.

FINDINGS

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 19.18.070L 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.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by attempting to overbuild the site. Alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 132 by City Clerk

APPROVALS 0

PROTESTS 0