



AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 20, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-14734 APPLICANT/OWNER: STEVEN PORTNOFF

THIS ITEM WAS HELD IN ABEYANCE FROM THE DECEMBER 6, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend DENIAL. If Approved, subject to:

Planning and Development

1. 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.

Public Works

2. All walls, private improvements and landscaping 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.

**** 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 proposed six-foot high block walls in the front yard where four feet is the maximum height allowed on 0.63 acres located on the south side of O'Bannon Drive, approximately 140 feet west of Lisa Lane.

A related Variance to allow a proposed single-family dwelling to be five feet from the side property line where 10 feet is the minimum setback required (VAR-16769) and a Special Use Permit (SUP-15027) to allow a proposed 80-foot high amateur radio antenna tower on the subject site will also be considered on this agenda.

EXECUTIVE SUMMARY

The applicant has created a self-imposed hardship. An alternative wall design could be utilized; therefore, denial of this request is recommended.

BACKGROUND INFORMATION

A) Related Actions

The Planning Commission recommended approval of companion item VAR-16769 concurrently with this application.

The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #32/ar).

B) Pre-Application Meeting

06/14/06 The requirements of a Variance application were explained.

C) Neighborhood Meetings

A neighborhood meeting is not required as part of this application request, nor was one held.

DETAILS OF APPLICATION REQUEST

A) Site Area

Net Acres: 0.63

B) Existing Land Use

Subject Property: Undeveloped
North: Single Family Dwelling
South: Single Family Dwelling
East: Single Family Dwelling
West: Undeveloped single family subdivision map recorded

C) Planned Land Use

Subject Property: R (Rural) Density Residential
North: R (Rural) Density Residential
South: R (Rural) Density Residential
East: R (Rural) Density Residential
West: ML (Medium Low) Density Residential

D) Existing Zoning

Subject Property: U [(Undeveloped) Zone, R (Rural) General Plan Designation]
North: R-1 (Single Family Residential)
South: U [(Undeveloped) Zone, R (Rural) General Plan Designation]
East: U [(Undeveloped) Zone, R (Rural) General Plan Designation]
West: U (Undeveloped) zone under resolution of intent to R-PD6
(Residential Planned Development, 6 units per acre.

E) General Plan Compliance

The U (Undeveloped) zoning classification is in conformance with the R (Rural) density residential General Plan designation.

<i>SPECIAL DISTRICTS/ZONES</i>	Yes	No
Special Area Plan		X
Special Overlay District		X
Trails		X
Rural Preservation Overlay District		X
County/North Las Vegas/HOA Notification		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

ANALYSIS

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
Wall Fence Height			
• Front	4 Feet (top 2 feet 50% open)	6.0 Feet	N
• Right Side	8 Feet	8 Feet	Y
• Left Side	8 Feet	8 Feet	Y
• Rear	8 Feet	8 Feet	Y

The applicant is requesting a deviation of 50% of the front yard wall standard detailed in Title 19.08.040(B) (2). The proposed wall is six feet in height. The wall is only permitted to be four feet tall in this area, with the top two feet 50% open.

B) General Analysis and Discussion

The proposed wall does not comply with the development standards set forth in 19.08.040(B) (2). The current wall standards for residential zoning districts do not place an inherent hardship on the applicant, nor prohibit him from making the highest and best use of the property. Therefore, staff must recommend denial.

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 proposing a wall not in conformance to the zoning code. Alternative wall 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.

PLANNING COMMISSION ACTION

The Planning Commission considered a condition to require a wrought iron fence.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 5

ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 233 by City Clerk

APPROVALS 0

PROTESTS 4