



## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 17, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-16769 - APPLICANT/OWNER: STEVEN PORTNOFF**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE DECEMBER 20, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

### **\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, 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.
2. The patio cover will not be an enclosed structure.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a 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 on 0.63 acres located on the south side of O'Bannon Drive, approximately 140 feet west of Lisa Lane. This represents a 50 - percent deviation from the zoning code.

A related Variance (VAR-14734) to allow proposed six-foot high block walls in the front yard where four feet is the maximum height allowed 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.

**BACKGROUND INFORMATION**

| <b><i>Pre-Application Meeting</i></b> |                                                                                                                                                                                                |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/14/06                              | The requirements of a Variance application were explained.                                                                                                                                     |
| 11/02/06                              | The Planning Commission recommended denial of companion item VAR-14734 concurrently with this application.<br>The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #37/ar). |
| <b><i>Neighborhood Meeting</i></b>    |                                                                                                                                                                                                |
|                                       | A neighborhood meeting is not required as part of this application request, nor was one held.                                                                                                  |

| <b><i>Details of Application Request</i></b> |      |
|----------------------------------------------|------|
| <b><i>Site Area</i></b>                      |      |
| Gross Acres                                  | 0.63 |

| <b>Surrounding Property</b> | <b>Existing Land Use</b> | <b>Planned Land Use</b>       | <b>Existing Zoning</b>                                     |
|-----------------------------|--------------------------|-------------------------------|------------------------------------------------------------|
| Subject Property            | Undeveloped              | R (Rural) Density Residential | U [(Undeveloped) Zone, R (Rural) General Plan Designation] |
| North                       | Single Family Dwelling   | R (Rural) Density Residential | R-1 (Single Family Residential)                            |
| South                       | Single Family Dwelling   | R (Rural) Density Residential | U [(Undeveloped) Zone, R (Rural) General Plan Designation] |

|      |                                                      |                                     |                                                                                                              |
|------|------------------------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------|
| East | Single Family Dwelling                               | R (Rural) Density Residential       | U [(Undeveloped) Zone, R (Rural) General Plan Designation]                                                   |
| West | Undeveloped - single family subdivision map recorded | ML (Medium Low) Density Residential | U (Undeveloped) zone under resolution of intent to R-PD6 (Residential Planned Development, 6 units per acre. |

| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---------------------------------------------------|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            | X         | N/A               |
| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| <b>Special Purpose and Overlay Districts</b>      |            | X         | N/A               |
| <b>Trails</b>                                     |            | X         | N/A               |
| <b>Rural Preservation Overlay District</b>        |            | X         | N/A               |
| <b>Development Impact Notification Assessment</b> |            | X         | N/A               |
| <b>Project of Regional Significance</b>           |            | X         | N/A               |

## DEVELOPMENT STANDARDS

Per Title 19.08, the following standards apply:

| <i>Standard</i>                                                                                         | <i>Required/Allowed</i>                                                                                                        | <i>Provided</i>              | <i>Compliance</i> |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------|
| Min. Lot Size                                                                                           | 20,000 sf                                                                                                                      | 27,443 sf                    | Y                 |
| Min. Lot Width                                                                                          | 30 Feet along cul-de-sac bulb                                                                                                  | 66 Feet                      | Y                 |
| Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul> | <ul style="list-style-type: none"> <li>• 20 Feet from edge of cul-de-sac bulb</li> <li>• 10 Feet</li> <li>• 35 Feet</li> </ul> | 25 Feet<br>5 Feet<br>72 Feet | Y<br>N<br>Y       |

## ANALYSIS

The applicant intends to construct a covered patio along the rear side of the proposed house. The site plan indicates the patio cover will be five feet from the west property line and seven feet from the north property line. The proposed size of the home being over 6,000 square feet is the contributing factor for the patio cover not meeting the required setback.

The hardship is self-imposed and staff cannot make a finding for approval.

## **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 to overbuild the site. A smaller patio cover would allow conformance to Title 19 setback 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 added condition #2.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

5

**ASSEMBLY DISTRICT**      2

**SENATE DISTRICT**      8

**NOTICES MAILED**      233 by City Clerk

**APPROVALS**      0

**PROTESTS**      0