

## AGENDA MEMO

CITY COUNCIL MEETING DATE: FEBRUARY 21, 2007  
DEPARTMENT: PLANNING AND DEVELOPMENT  
ITEM DESCRIPTION: VAR-18673 - APPLICANT/OWNER: ANA BELTRAN

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

The Planning Commission (7-0 vote) and staff recommend DENIAL.

#### **Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-18672), Site Development Plan Review (SDR-18670), and Variance (VAR-18674) shall be required, if approved.
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 \*\***

**PROJECT DESCRIPTION**

This request is for a Variance to allow deviations from standards for setbacks, residential adjacency, and minimum building separations for a proposed multi-family apartment complex consisting of three buildings of four units each on 0.5 acres at the northwest corner of Poppy Lane and Paniflow Street. Specifically, this application requests deviations to allow a front and rear yard setback of five feet where 20 feet is the minimum required and a minimum separation between buildings of 5.5 feet where 10 feet is the minimum required in the proposed R-3 (Medium Density Residential) zoning district. Finally, this application requests a deviation to allow a residential adjacency setback of 33 feet where 66 feet is the minimum required for the western side of the property.

This request is in addition to a Variance (VAR-18674) to allow a deviation from the required number of parking spaces. A Rezoning (ZON-18672) to allow R-3 (Medium Density Residential) zoning where the property currently consists of undeveloped land that is zoned R-E (Residence Estates) and a Site Development Plan Review (SDR-18670) are also for the subject site.

The applicant indicates that the proposed multi-family apartment complex will serve the demand for affordable housing while providing inspiration to surrounding property owners to improve the quality and look of the neighborhood. Due to the self-imposed hardship inevitably created by the intensity of proposed development on the site, denial of this request is recommended.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
01/25/07	The Planning Commission recommended approval of ZON-18672 and denial of companion items VAR-18674 and SDR-18670 concurrently with this application.  The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #49/rts).
<b><i>Related Building Permits/Business Licenses</i></b>	
There are no building permits or business licenses related to this project approved or under review.	
<b><i>Pre-Application Meeting</i></b>	
11/29/06	A pre-application meeting was held and elements of this application were discussed. It was noted that the proposed density for this project is 14.49 DUA and that 23 parking spaces would be the requirement. Additionally, it was noted that two variances would be needed to deal with setback and parking deficiencies. Public Works talked about half-street improvements; need to meet with flood control; traffic signal impact fees; and dedicating radius corners. Submittal requirements were discussed.

<b>Neighborhood Meeting</b>	
A neighborhood meeting is not required, nor was one held.	

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.50

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	M (Medium Density Residential)	R-E (Residence Estates)
North	Undeveloped	M (Medium Density Residential)	R-E (Residence Estates)
South	Non-profit Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential)
East	Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential)
West	Undeveloped	L (Low Density Residential)	R-E (Residence Estates)

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Area Plan</b>		X	n/a
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<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**

*Pursuant to Title 19.08, the following development standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	6,500 SF	21,681 SF	Y
Min. Lot Width	n/a	n/a	n/a
Min. Setbacks			
• Front	20 Feet	5 Feet	N *
• Side	5 Feet	15.58 Feet	Y
• Corner	5 Feet	47 Feet	Y
• Rear	20 Feet	5 Feet	N*

Min. Distance Between Buildings	10 Feet	5.5 Feet	N*
Max. Lot Coverage	n/a	n/a	n/a
Max. Building Height	2 Stories or 35 Feet	2 Stories	Y
Trash Enclosure	1 Gated & Covered	1 Gated & Covered	Y

\* If approved this Variance would allow a front and rear setback of five feet where 20 feet would be required. Additionally, it would allow a distance between buildings of 5.5 feet where 10 feet would be required.

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	66 Feet	33 Feet	N*
Adjacent development matching setback	15 Feet	33 Feet	Y
Trash Enclosure	50 feet	225 Feet	Y

\* If approved this Variance would allow a residential adjacency setback of 33 feet where 66 feet would be required.

<i>Deviations from Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Percent Deviation</i>
Min. Setbacks			
• Front	20 Feet	5 Feet	75% Reduction
• Rear	20 Feet	5 Feet	75% Reduction
Min. Distance Between Buildings	10 Feet	5.5 Feet	45% Reduction
3:1 proximity slope	66 Feet	33 Feet	50% Reduction

## ANALYSIS

The subject property is designated as M (Medium Density Residential) under the Southeast Sector Plan of the General Plan. This category permits a variety of multi-family units such as plexes, townhouses, and low-density apartments. This category allows up to 25.49 units per acre. The proposed development will have a density of 24 dwelling units per acre and is in compliance with the General Plan.

The proposed Rezoning (ZON-18672) to the R-3 (Medium Density Residential) zoning district, which would allow a residential density of 25 units per acre, is consistent with the existing M (Medium Density Residential) Master Plan designation. It would also make it consistent with surrounding land uses, which consist of multi-family development to the south and east of the property. The site plan proposes 12 apartments, which will result in a density of 24 units per acre. Given the existing M (Medium Density Residential) Master Plan designation, the requested rezoning request is appropriate for this site and staff is recommending approval of that item.

In addition to the deviations from development standards for setbacks, residential adjacency setback, and minimum building separation addressed here, the project as proposed requires several landscape related waivers and deviations from parking standards. Staff is recommending denial on both the Site Development Plan Review (SDR-18670) and Variance (VAR-18674) for development standards due to the extent of the waiver requests and the self-imposed hardship generated by the proposed project.

There are no Minimum Separation Distance Requirements in the Zoning Code that apply to the proposed multi-family residential use. However, there are minimum building separation standards that apply to the R-3 (Medium Density Residential) zoning category and the proposed site plan does not meet this development standard. The building elevations depict a two-story building of a contemporary design with a pitched roof. The elevations indicate that each of the four units per building will have private entry via doors located on the east and west sides of the buildings. The second floors are accessed by stairwells that due to their position and size place the buildings too close together and necessitate a deviation from standards for minimum building separation. The submitted site plan calls for building separations of 5.5 feet where the requirement is 10 feet, a reduction of 45 percent.

The site is subject to the Residential Adjacency Standards due to the L (Low Density Residential) designated property to the west of this property. The Proximity Slope uses a 3:1 calculation for determining what the distance from a protected property to a building on the subject site may be. The proposed buildings are two stories and approximately 22 feet in height. Per the 3:1 slope requirement this would necessitate a residential adjacency setback of 66 feet. The nearest proposed building is only 33 feet from the eastern property line of the protected property, a reduction of 50 percent of the requirement.

The proposed setback of five feet on the western side of the site does not meet the 20-foot setback requirements, a reduction of 45 percent, of the R-3 (Medium Density Residential) District or the setback requirement of residential adjacency as described above. Further, the proposed setback of five feet on the eastern side of the site does not meet the 20-foot setback requirements, a reduction of 45 percent, of the R-3 (Medium Density Residential) District. Staff is not in support of this Variance request as this is a self-imposed hardship and therefore does not meet the criteria for granting a Variance.

## **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 exceeding the capacity of the site to meet development standards. A less intensive development 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** 11

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 3

**NOTICES MAILED** 95 by City Clerk

**APPROVALS** 1

**PROTESTS** 0