



AGENDA MEMO

CITY COUNCIL MEETING DATE: JULY 11, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-21687 - APPLICANT/OWNER: HILLBILLY ACRES, LLC

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Conformance to the conditions for Rezoning (ZON-15371) and Site Development Plan Review (SDR-21688) if approved.
2. Variance (VAR-15373) is hereby expunged.
3. 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 and residential adjacency for a proposed multi-family apartment complex consisting of four, eight-unit buildings and one, four-unit building on 1.69 acres adjacent to the west side of Paniflow Street, approximately 100 feet south of Harris Avenue. Specifically, the application requests deviations to allow a front yard setback of 17 feet and rear yard setback of 16.5 feet where 20 feet is the minimum required in the approved R-3 (Medium Density Residential) zoning district. Finally, this application requests a deviation to allow a residential adjacency setback of five feet where 79.5 feet is the minimum required from the protected property, which is partially encompassed by the subject site.

This request would expunge a previously approved Variance (VAR-15373) that allowed similar deviations of the setback and residential adjacency standards for the site in connection with the Site Development Plan Review (SDR-15375) which is being amended (SDR-21688) concurrent with this application. The applicant has indicated the needed revisions are due to a boundary line correction that necessitated a reorientation of the buildings.

The building placements are not in compliance with the R-3 (Medium Density Residential) development standards and the buildings as proposed are too close to existing single-family properties to meet Residential Adjacency Standards. For these reasons staff is recommending denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
11/15/06	The City Council approved a request for a Rezoning (ZON-15371) to R-3 (Medium Density Residential), Variance (VAR-15373) for setbacks, and Site Development Plan Review (SDR-15375) for a 36-unit multi-family residential project on this site. The Planning Commission and staff had recommended denial.
06/14/07	The Planning Commission recommended approval of companion item SDR-21688 concurrently with this application. The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #47/rts).
<i>Related Building Permits/Business Licenses</i>	
There are no building permits or business licenses related to this project approved or under review.	

<i>Pre-Application Meeting</i>	
04/18/07	A pre-application meeting was held and elements of this application were discussed. It was noted that the site development plan review application would be an amendment to the prior approval. Public Works talked about a waiver for throat depths being needed. Submittal requirements were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
05/11/07	The Department of Planning and Development conducted a site visit that found that this was an undeveloped site that appears to have had some grading in the past. There is a single family home located on a parcel that is not a part of this application in the middle of the western side of the project area.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	1.69

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	M (Medium Density Residential)	R-E (Residence Estate) under Resolution of Intent to R-3 (Medium Density Residential)
North	Single Family Residential, Detached	M (Medium Density Residential)	R-E (Residence Estate)
South	Undeveloped	M (Medium Density Residential)	R-E (Residence Estate) under Resolution of Intent to R-3 (Medium Density Residential)
East	Multi-family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)
West	Single Family Residential, Detached	L (Low Density Residential)	R-E (Residence Estate)

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

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	1.69 Acres	Y
Min. Lot Width	n/a	148 Feet	n/a
Min. Setbacks			
• Front	20 Feet	17 Feet	N *
• Side	5 Feet	5 Feet	Y **
• Corner	5 Feet	n/a	n/a
• Rear	20 Feet	16.5 Feet	N *
Min. Distance Between Buildings	10 Feet	10 Feet	Y
Max. Lot Coverage	n/a	47.3%	n/a
Max. Building Height	2 Stories / 35 Feet	2 Stories / 26.5 Feet	Y
Trash Enclosure	Gated and Screened	Gated and Screened	Y

* If approved this Variance would allow a front and rear setback of 17 and 16.5 feet, respectively, where 20 feet would be required.

** The setback complies with R-3 (Medium Density Residential) district standards, but does not comply with Residential Adjacency setbacks.

Pursuant to Title 19.08.060, the following residential adjacency standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	79.5 Feet	5 Feet	N *
Adjacent development matching setback	10 Feet	5 Feet	N *
Trash Enclosure	50 Feet	38 Feet	N **

- * If approved this Variance would allow a residential adjacency setback of 5 feet where 79.5 feet would be required.
- ** One of the trash enclosures on the site is 38 feet from an existing single family dwelling. A condition of approval has been added to the Site Development Plan Review (SDR-21688) which will require this enclosure to be moved if this application is approved.

<i>Deviations from Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Percent Deviation</i>
Min. Setbacks			
• Front	20 Feet	17 Feet	15% Reduction
• Rear	20 Feet	16.5 Feet	17.5% Reduction
3:1 proximity slope	79.5 Feet	5 Feet	93.7% Reduction

ANALYSIS

The subject property is located in the Southeast Sector of the General Plan and has a land use designation of M (Medium Density Residential). This designation allows up to 25 units per acre and a variety of multi-family housing options. The Resolution of Intent zoning of R-3 (Medium Density Residential) is compatible with the land use designation.

The site is subject to the Residential Adjacency Standards due to the R-E (Residence Estates) zoned property partially surrounded by the western portion of the project site. 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 26.5 feet in height. Per the 3:1 slope requirement this would necessitate a residential adjacency setback of 79.5 feet. The nearest proposed building is only five feet from the southern property line of the protected property, a reduction of 93.7 percent of the requirement.

In addition to the deviations from development standards for setbacks and residential adjacency addressed here, the project as approved (SDR-15375) required several landscape related waivers. Staff is recommending denial on the amended Site Development Plan Review (SDR-21688) due to the continued self-imposed hardship generated by the proposed project.

The proposed setback of 17 feet on the eastern side of the site does not meet the 20-foot setback requirements, a reduction of 15 percent, of the R-3 (Medium Density Residential) District nor does the proposed setback of 16.5 feet on the western side of the site meet the 20-foot setback requirements, a reduction of 17.5 percent. Further, the five-foot setback proposed next to a protected single-family residential property does not meet the setback requirements of residential adjacency as described above; therefore, 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 proposing a structure that is too close to adjacent residential development based on its height. Alternative design and building location 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 28

SENATE DISTRICT 2

NOTICES MAILED 75 by City Clerk

APPROVALS 0

PROTESTS 0