



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: FEBRUARY 28, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - VAR-26228 - APPLICANT/OWNER: SF INVESTMENTS, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

***Planning and Development***

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-25893), Site Development Plan Review (SDR-25894) 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.

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

**PROJECT DESCRIPTION**

This project is for a proposed 248 unit apartment complex on 11.45 acres at the southeast corner of Lone Mountain Road and U.S. 95. This application is a request for a Variance to allow a 70-foot Residential Adjacency Setback where 91 feet is the minimum required.

The following related cases will be considered concurrently: a request for a Site Development Plan Review (SDR-25894) for a 248 unit apartment complex, a request for a General Plan Amendment (GPA-25892) to M (Medium Density Residential), and a request for a Rezoning (ZON-25893) to R-3 (Medium Density Residential).

The bulk and scale and density combined with the reduced setback are considered unacceptable and uncomplimentary with adjacent residential uses. Staff recommendation is denial.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
02/16/05	The City Council approved a Petition to Annex (ANX-5100) property generally located on the east side of U.S. 95, south of Lone Mountain Road (APN 138-03-510-001, 002 and 031), containing approximately 7.02 acres. The effective date of this annexation was 2/25/05. Planning Commission recommended approval on 12/16/04.
03/02/05	The City Council approved a General Plan Amendment (GPA-5823) application to amend a portion of the Centennial Hills Sector Plan) of the General Plan from O (Office) to MLA (Medium-Low Attached Density Residential) on 7.80 acres adjacent to the southwest corner of Balsam Street and Lone Mountain Road. The Planning Commission recommended denial on 01/27/05.
03/02/05	The City Council approved a Rezoning (ZON-5827) application to from R-E (Residence Estates) and U (Undeveloped) [O (Office) General Plan Designation] to R-PD10 (Residential Planned Development - 10 units per acre) on 7.80 acres adjacent to the southwest corner of Balsam Street and Lone Mountain Road. The Planning Commission recommended denial on 01/27/05.
03/02/05	The City Council approved a Site Development Plan Review (SDR-5826) application for a proposed 78-lot single-family attached residential development on 7.80 acres adjacent to the southwest corner of Balsam Street and Lone Mountain Road. The Planning Commission recommended denial on 01/27/05.

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06/01/05	The City Council approved a General Plan Amendment (GPA-6321) application to amend a portion of the Centennial Hills Sector Plan of the General Plan from PR-OS (Park/Recreation/Open Space) And O (Office) to MLA (Medium-Low Attached Density Residential) on 3.26 acres at 4705, 4723 and 4743 Balsam Street and on property adjacent to the southeast corner of Lone Mountain Road and Balsam Street. Staff recommended approval.
05/18/05	The City Council considered an Annexation (ANX-6060) application to Petition for the annexing of land generally located on the west side of Balsam Street, 270 feet south of Lone Mountain Road, containing approximately 2.4 acres. The Planning Commission recommended approval on 03/24/05. [The effective date is 05/27/05]
06/01/05	The City Council approved Site Development Plan Review (SDR6332), General Plan Amendment (GPA-6321), and Rezoning (ZON-6327) applications associated with a proposed 124 lot single-family attached residential development on 12.00 acres adjacent to the southeast corner of U.S. 95 and Lone Mountain Road and associated. The Planning Commission did not reach a super majority vote on the GPA request. The Planning Commission recommended approval of the Rezone and Site Development Plan Review.
10/05/05	The City Council approved a Petition to Vacate a portion of Balsam Street and unnamed rights-of-way located south of Lone Mountain Road and east of U.S. 95. Planning Commission and Staff recommended approval.
06/20/07	The City Council approved an Extension of Time (EOT-21136) of Site Development Plan Review (SDR-6332). Staff recommended approval with a Two-year extension.
07/26/07	The Planning Commission accepted the applicants request for an abeyance to the 8/09/07 Planning Commission.
08/09/07	The Planning Commission approved a Tentative Map (TMP-21144) for a 124-lot single family residential subdivision on 12.0 acres adjacent to the southeast corner of Lone Mountain Road and U.S. Highway 95. Staff recommended approval.
<b><i>Related Building Permits/Business Licenses</i></b>	
The site is undeveloped; therefore, there are no related building permits or building licenses that pertain to this site.	
<b><i>Pre-Application Meeting</i></b>	
11/27/07	A pre-application meeting was held with the applicant. The applicant is proposing a 252 unit multi-family development for the parcel. The applicant was informed in detail the parking, landscaping and setback requirements for a multi-family development. Submittal requirements were then discussed.

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<b>Neighborhood Meeting</b>	
12/27/07	<p>A neighborhood meeting was held on Thursday, December 27, 2007 at 7:00 pm at the Mt. Crest Community Center located at 4701 N. Durango Drive, Las Vegas, NV. The following concerns were expressed at the meeting:</p> <ul style="list-style-type: none"> <li>• Residents did not express either approval or rejection of the proposed change in density.               <ul style="list-style-type: none"> <li>• Primary concern among residents were:</li> <li>• When were the three homes in the west side of Balsam annexed;</li> <li>• Whether the drainage study would be updated as has been requested of the currently approved project;</li> <li>• Whether the bridal path along the rear on the property east of Balsam would be maintained;</li> <li>• Whether the entry off of Lone Mountain would in fact be the only entry and what assurance they would have that an entry would not be opened onto Balsam.</li> <li>• Whether the maximum height was based off of existing grades or were there plans to further increase the height of the graded surface;</li> <li>• Whether the conditions that had been discussed for the previous project would be continued here (i.e.. a larger vacation of Balsam?);</li> <li>• Whether the utilities would be placed underground and how that would affect the current residences who use the existing overhead lines;</li> <li>• The applicant's representative indicated that he would follow up on the questions presented.</li> </ul> </li> </ul>

<b>Field Check</b>	
12/19/07	A site visit was conducted and the project parcels are undeveloped and are positioned south of Lone Mountain Road and the related overpass across the US 95 Freeway.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	11.45 acres

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<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped	MLA (Medium Low Density Attached Residential)	R-E (Residence Estates) and U (Undeveloped) Zone under Resolution of Intent to R-PD10 (Residential Planned Development 10 units per acre) Zone.
North	Hotel and Casino	GC (General Commercial)	C-2 (General Commercial)
South	Single family Residential Clark County	O (Office) Clark County	R-E (Residence Estates) - Clark County
East	Single family Residential - Clark County	MLA (Medium Low Density Attached Residential) City of Las Vegas, and O (Office) Clark County	R-E (Residence Estates) City of Las Vegas and Clark County
West	US Interstate 95	ROW (Right of Way)	ROW (Right of Way)

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

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**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	>6,500 SF	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	5 Feet	5 Feet	Y
• Corner	5 Feet	5 Feet	Y
• Rear	20 Feet	20 Feet	Y
Min. Distance Between Buildings	10 Feet	10 Feet	Y
Max. Building Height	2 stories/35 feet	30.33 Feet	Y
Trash Enclosure	50 Feet from protected property	>50 Feet	Y
Mech. Equipment	Screened	Screened	Y

<b>Residential Adjacency Standards</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
3:1 proximity slope	91 Feet	70 Feet	N*
Adjacent development matching setback	5 feet	70 Feet	Y
Trash Enclosure	50 Feet	>50 Feet	Y

\*A Variance has been requested by the applicant.

**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.

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No evidence of a unique or extraordinary circumstance has been presented in that the applicant has created a self-imposed hardship by choosing a building footprint adjacent to existing single family residences and proposing a building height that will not conform with Title 19.08 Residential Adjacency Standards. An alternative that reduces the building height and/or square footage of the structure and/or proposes a project footprint further away from the residential property line could allow conformance to the Title 19.08 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** 7

**ASSEMBLY DISTRICT** 37

**SENATE DISTRICT** 4

**NOTICES MAILED** 414

**APPROVALS** 6

**PROTESTS** 14