



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: MAY 22, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-26858 - APPLICANT/OWNER: THOMAS C BURGER**

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

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

***Planning and Development***

1. Conformance to the Conditions of Approval for Rezoning (Z-0072-88) 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.

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

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a 47.5-foot front yard setback where 55 feet is permitted, a rear yard setback of 46 feet where 50 feet is permitted and a 6.5-foot north side yard and a 5-foot south side yard setback where 10 feet is permitted to accommodate proposed additions to an existing single family residence located at 1405 Golden Oak Drive. The applicant is proposing room additions to an existing 3,870 square foot home to create a 6,493 square-foot home with a detached 1,264 square-foot guest house with kitchen on 0.51 acres. A Special Use Permit (SUP-26859) to allow an Accessory Structure (Class I) with kitchen on the subject property has been separately filed in addition to this Variance. This request for a Variance is the result of a self-imposed hardship and the setback deviation requests are excessive; therefore staff recommends denial of this application.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
03/19/86	The City Council approved an Annexation (A-0009-85) of property described generally as located south of Charleston Boulevard between Torrey Pines Drive and Fort Apache Road.
09/07/88	The City Council approved a Rezoning (Z-0072-88) on 43.1 acres located west of Tenaya Way between Del Rey Avenue and Oakey Boulevard, from R-E (Residence Estates) to R-PD2 (Residential Planned Development 2 Units Per Acre).
11/23/1998	The City Council approved a request to Amend a portion of the Southwest sector of the General Plan (GPA-27-98) on properties bounded by Holmby channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, from R (Rural Density Residential) to DR (Desert Rural Density Residential).
03/27/08	The Planning Commission approved the applicants request to hold this item in abeyance until 04/24/08.
04/24/08	The Planning Commission approved the applicants request to hold this item in abeyance until 05/08/08.
05/08/08	The Planning Commission approved the applicants request to hold this item in abeyance until 05/22/08.
<b><i>Related Building Permits/Business Licenses</i></b>	
08/09/01	The Department of Building and Safety issued a building permit (#01014418) to allow the construction of a 14-foot by 29-foot patio cover. The project was completed 09/17/01.
02/28/94	The Department of Building and Safety issued a renewal of a building permit (#94321065) to allow the construction of a cabana, detached bathroom and barbeque. The project was completed 03/14/94.

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02/24/94	The Department of Building and Safety issued a renewal of a building permit (#94320552) to allow the construction of a single family home. The project was completed 03/10/94.
12/03/92	The Department of Building and Safety issued a building permit (#92169183) to allow the construction of a cabana, detached bathroom and a barbeque. The permit expired 10/09/93.
09/29/92	The Department of Building and Safety issued a building permit (#92161793) to allow the construction of a single family home. The permit expired 10/09/93.
<b><i>Pre-Application Meeting</i></b>	
01/25/08	A pre-application meeting was held with the applicant where details of the Variance and Special Use permit submittal requirements were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	

<b><i>Field Check</i></b>	
02/21/08	A field check was performed by staff at the subject location. The field check noted that the subject property sits at a significantly lower elevation than the neighboring homes to the west.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.51

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single Family Residence	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units per Acre)
North	Single Family Residence	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units per Acre)
South	Single Family Residence	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units per Acre)
East	Single Family Residence	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units per Acre)
West	Single Family Residence	DR (Desert Rural)	R-E (Residence Estates)

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<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>			
R-PD (Residential Planned Development) District	X		N*
<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

\* The proposed additions as designed do not conform to the required setbacks set forth in Rezoning (Z-0072-88) which established the R-PD zoning on this site. This Variance request has been submitted to allow the setbacks as proposed within this request.

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08 and the requirements set forth by Rezoning Z-0072-88, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	22,424 SF	Y
Min. Lot Width	N/A	N/A	N/A
Min. Setbacks			
• Front	55 Feet from the street centerline	47.5 Feet	N*
• Side (north)	10 Feet	6.5 Feet	N*
• Side (south)	10 Feet	5 Feet	N*
• Rear	50 Feet	46 Feet	N*
Max. Lot Coverage	N/A	37.9%**	Y
Max. Building Height	18 Feet	18 Feet	Y
Mech. Equipment	Screened	Screened	Y

\* Variances from these setbacks are part of this request.

\*\* This figure represents the total area of coverage of all proposed additions, including the Accessory Structure (Class I) with kitchen. Maximum lot coverage limitations are not applicable within this zoning district.

## **ANALYSIS**

The applicant has requested this Variance to allow for proposed additions to an existing home within the gated subdivision of Ten Oaks Estates. The proposed additions would increase the size of the existing single-family home from 3,870 square feet to 6,493 square feet. The setbacks for the neighborhood were established through the R-PD2 (Residential Planned Development 2 Units per Acre) zoning which placed a minimum 55-foot front yard setback from the private street centerline, a 50-foot rear yard setback and side setbacks of 10 feet on all properties within the Ten Oaks Estates subdivision. The applicant has requested this Variance to allow a 47.5-foot front yard setback to accommodate a new front-loaded three car garage and a 46-foot rear yard setback to accommodate a dual restroom and shower enclosure accessed from the pool area. The Variance for a five-foot setback on the south property line is requested to accommodate a family room addition and 6.5-foot north side yard setback is requested to accommodate a bedroom addition, mechanical equipment room and a portion of a new walk-in closet.

The subject home sits on a wedge-shaped lot with a wider back yard than the front, which measures 0.51 acres, or 22,424 square feet. Given this lot size and the existing setbacks established by the R-PD2 (Residential Planned Development 2 Units per Acre) zoning, the pre-existing building envelope is large enough to house all of the proposed additions without the need for a Variance. While several Variance requests have been approved within the Ten Oaks Estates subdivision in the past, most of these were minor in nature involving a deviation on only one side of the building setback area. Staff finds that the request for a Variance to the setbacks on the north, south, east and west sides of the home is excessive and therefore recommends denial of this request.

## **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 proposing additions within the building setback areas established by the R-PD2 (Residential Planned Development 2 Units per Acre) zoning. Redesigning the proposed additions and reallocating space within the existing building envelope 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** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 162

**APPROVALS** 1

**PROTESTS** 4