

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: MAY 22, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SUP-27281 - APPLICANT/OWNER: TERRY HELMS**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for Habitable Accessory Structure (Class I) use.
2. Conformance to the conditions for Variance (VAR-27280) if approved.
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

5. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainage ways as recommended.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed two story Habitable Accessory Structure (Class I) with a kitchen at 809 Upland Boulevard. Related to (VAR-27280), the applicant is seeking approval to construct a 920 square foot guest house on the side/rear yard of an existing single family dwelling. Located within an R-1(Single Family Residential) zoned subdivision, Title 19 is specific in the applicable development standards for this district. A Special Use Permit, demonstrating the proposed use is appropriate and compatible with the site and surrounding area, is required to allow a Habitable Accessory Structure (Class I) with a kitchen in an R-1(Single Family Residential) zone.

To approve a Special Use Permit for a Habitable Accessory Structure (Class I) in an R-1(Single Family Residential) zone, compliance with the stated conditions of Title 19 must be met. Staff cannot recommend approval of this request because the proposed structure does not meet with setback, height and aesthetic compatibility requirements, in addition to requiring an associated Variance.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/24/08	The Planning Commission will hear a related request for a Variance to allow a proposed Habitable Accessory Structure (Class I) to be 25 feet in height where a height of 11.75 feet is permitted and to allow a zero-foot side yard setback where three feet is required on 0.22 acres at 809 Upland Boulevard.
<i>Related Building Permits/Business Licenses</i>	
1990	House Built
08/24/90	Pool and spa (Permit 90069285)
<i>Pre-Application Meeting</i>	
01/28/08	The applicant was advised of the requirements to apply for a Special Use Permit and a Variance to allow a proposed Habitable Accessory Structure (Class I) in an R-1 (Single Family Residential) zone, to exceed the allowable height and reduce the side yard set back requirement to three feet .
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required nor was one held.	
<i>Field Check</i>	
03/21/08	The location of this site is within a typical R-1 subdivision. Houses appear close together. A park is located across the street from the residence.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.21

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single Family Residential	L(Low Density Residential)	R-1(Single Family Residence)
North	Single Family Residential	L(Low Density Residential)	R-1(Single Family Residence)
South	Single Family Residential	L(Low Density Residential)	R-1(Single Family Residence)
East	Single Family Residential	L(Low Density Residential)	R-1(Single Family Residence)
West	Park	PR-OS	C (Civic)

<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			
A-O (Airport Overlay) District (200)	X		Y
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

Applicable code section 19.08

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 s.f.	9,261 s.f.	Y
Min. Lot Width	65 feet	69.50 feet	Y
Min. Setbacks			
• Front	20 feet	20 feet	Y
• Side	5 feet	5 feet	Y
• Corner	15 feet	N/A	N/A
• Rear	15 feet	37 2	Y
Max. Lot Coverage	50%	26%	Y
Max. Building Height	2 stories or 35 feet, whichever is less	15 feet	Y

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<i>Accessory Structure</i>			
Min Setbacks			
From House	6 feet	74	Y
From Side/Rear Property Lines	3 feet	Side 0 Rear 445	N Y
Maximum Building Height (2 stories or 35 feet or height of principal dwelling, whichever is less)	11.45 feet	25 feet	N
	50% of rear yard	15%	Y
Maximum Lot Coverage	50% of entire lot (all structures)	31%	Y
Maximum Floor Space (50% of principal dwelling)	1,238 s.f.	920 s.f.	Y

ANALYSIS

The applicant is proposing to construct a two story, 920 square foot Habitable Accessory Structure (Class I) with a kitchen on an R-1(Single Family Residential) zoned lot. Title 19.08 states the total floor area of a single, detached accessory structure shall not exceed fifty percent of the floor area of the principal dwelling unit on the same lot. A 2,477 square foot single family dwelling exists on the subject property, allowing a maximum of 1,238 square feet of floor space for an accessory structure. An aggregate total ground floor area of 2,937 square feet of the primary dwelling (2,477 s.f.) plus the proposed accessory structure (460 s.f.) produces an overall lot coverage of thirty-one percent and is within the allowable lot coverage of fifty percent in an R-1(Single Family Residential) zone.

The two story accessory structure is shown on the submitted site plan and elevations to be located on the north side of the 9,261 square foot lot. The proposed accessory structure is shown as seven feet four inches from the main dwelling, meeting the required six feet separation. The north side of the proposed accessory structure is to be constructed with a one hour fire rated wall as it will abut an existing block wall without benefit of the required three foot separation setback. Elevations depict the accessory structure at 25 feet in height, thus, exceeding the allowable height of 11.75 feet by 13.25 feet. Title 19.08 requires an accessory structure to have a three foot setback from side and rear property lines and the height of the structure to be no taller than the main dwelling.

Access is provided by a door on the west side of the accessory structure. From the main house a bridge extends from a balcony on the back of the house to the second floor of the proposed structure. A stairway against the south outer wall of the accessory building provides access to the second floor of the structure and the balcony. Access into the main dwelling from the balcony is not provided.

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The floor plan of the two-story structure indicates the first floor will contain a great room, a room for heat / air equipment and an interior stairway to the second floor. A half bath will be tucked under the stairway. On the second floor is a full kitchen, bathroom, open area /family room and closet space. Title 19.08 allows one kitchen in a Habitable Accessory Structure.

Title 19.08 states Habitable Accessory Structures on any lot in any residential district shall conform to the following:

1. The size of the lot or parcel must exceed six thousand five hundred square feet.
2. Unless the principal dwelling is owner-occupied, a habitable accessory structure may not be offered or occupied as a rental unit.
3. **A habitable accessory structure may contain one kitchen, but otherwise must comply with all provisions of Section 19.08.040 applicable to accessory structures.**
4. A minimum of one additional on-site parking space must be provided beyond the number of spaces normally required.
 - (a) Accessory Only to Main Use. No accessory structure shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building.
 - (b) **Height. A detached accessory structure shall not exceed two stories in height (with a maximum of thirty-five feet), or the height of the main building, whichever is less.**
 - (c) Size and Coverage. The total floor area of all accessory structures shall not exceed fifty percent of the floor area of the principal dwelling unit constructed on the same lot. In addition, the main aggregate total of the ground floor areas of all accessory buildings shall not cover more than fifty percent of the rear yard, and further, in the zoning districts where lot coverage provisions exist, the aggregate total of the ground floor areas of all structures and dwellings shall not exceed the percentage of lot coverage permitted in that zoning district.
 - (d) Side and Rear Yards.
 - (i) **Detached accessory structures (excluding patio covers) in the rear and side yard area must be located a minimum distance of three feet from the side and rear property lines and must be separated a minimum distance of six feet from the main dwelling.** On corner lots, the roof of an accessory structure may be attached to the main dwelling, if there is a minimum six foot separation between the walls of the accessory structure and provided that at least two sides of the breezeway are open. A gate or fence which is at least fifty percent open construction may be attached to one end of the breezeway. In addition, accessory structures in the rear yard of corner lots may not be located closer to the side property line than that required for the main dwelling.

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- (ii) Detached accessory structures (excluding patio covers) in the side yard area must be located a minimum distance of three feet from the side property line and must be separated a minimum distance of six feet from the main dwelling.
- (iii) Except as provided in Subsection (e), detached accessory structures are not permitted in front of the primary structure.
- (iv) No setback is required for a detached accessory structure from a property line that abuts an alley.
- (e) Front Yards. No detached accessory structure is permitted in the front yard unless
 - (i) The structure is a side-loaded garage which is used strictly as an ancillary use;
 - (ii) The garage conforms to the requirements and limitations applicable to a guest house / casita; and
 - (iii) The front yard does not contain a guest house/casita.
- (f) Aesthetics. An accessory structure must be aesthetically compatible with the principal dwelling unit.
- (g) Floor Plan. Accessory structures may contain any type of room use, but may not contain any kitchen except as otherwise specifically provided in Section 19.04.050(B) with respect to a habitable accessory structure.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

- 1. The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The proposed Habitable Accessory Structure (Class I) with a kitchen is not compatible with surrounding land uses, present and future, as it exceeds the height of the main dwelling by 13.25 feet and is too great an increase in the visual intrusion to neighboring single-family home. Additionally, the structure does not meet the required three-foot, side yard setback on the north side of the house, raising concerns for the safety and welfare of nearby homes.

- 2. The subject site is physically suitable for the type and intensity of land use proposed.**

The Habitable Accessory Structure is located in the side yard of an existing single-family lot and does not meet the required side yard setback and exceeds the allowable height. Therefore, the site is physically not suitable for this use as the proposed structure is too large for this location.

- 3. **Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

The street or highway facilities provide access and are adequate in size to meet the requirements of the proposed use.

- 4. **Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

The building will be subject to inspection prior to occupancy, therefore, the Habitable Accessory Structure, will not compromise the public health, safety and welfare.

- 5. **The use meets all of the applicable conditions per Title 19.**

The Habitable Accessory Structure as proposed does not meet the conditional use requirements for use per Title 19.04 and 19.08.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 17

ASSEMBLY DISTRICT 3

SENATE DISTRICT 11

NOTICES MAILED 300

APPROVALS 11

PROTESTS 12