



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: AUGUST 28, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-29025 - APPLICANT/OWNER: EFRON AND ELVA CALDERON

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. This approval shall be void one year from the date of final approval, 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 a 13-foot rear yard setback on proposed lot one, and a 12-foot rear yard setback on proposed lot two where 15 feet rear yard setbacks are required in a R-1 (Single Family Residential) district. The site currently has two single-family residences constructed on the site. The original home was constructed in 1950, and no building permits were found on file for the second structure. The applicant is seeking the rear yard Variances in order to be able to split this parcel into two separate parcels, each with a single-family residence on it. Proposed lot one, with a 13-foot rear yard setback demonstrates a 12 percent deviation from the 15-foot rear yard setback standard, and proposed lot two demonstrates a 19 percent deviation from the 15-foot rear yard setback standard.

The lot size (19,787 square feet) allowed for this parcel to be divided into two while still satisfying the minimum development requirements for an R-1 (Single Family Residence) district. Subsequently, the second home could have been constructed in compliance with Title 19.08 Development Standards for an R-1 (Single Family Residence) district. Also, the applicant was granted a previous Variance (VAR-12658) for the requested 12-foot and 13-foot rear yard setbacks on 05/11/06, but that Variance was allowed to expire. Due to the self-imposed hardship created by the applicant, staff is recommending denial of this application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/11/06	The Planning Commission approved (final action) a request for a Variance (VAR-12658) to allow a 13-foot and a 12-foot rear yard setback where 15 feet is required on a proposed two lot single-family residential subdivision on 0.47 acre at 804 Dike Lane.
06/27/06	A request for a review of a two-Lot Parcel Map [PMP-5407 (Merger and Resubdivision)] on property located at 804 Dike Lane was administratively approved.
<i>Related Building Permits/Business Licenses</i>	
No building permits or business licenses are on file for this property.	
<i>Pre-Application Meeting</i>	
07/02/08	A pre-application meeting was held and the requirements for submitting an application for a rear yard Variance were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

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Field Check	
07/21/08	A routine field check by staff noted a single R-1 (Single Family Residence) zoned parcel with two structures (single-family homes) on it. One tree was noted along Dike Lane, but the remaining open space on the parcel was not landscaped. The structures and perimeter walls were free of graffiti.

Details of Application Request	
Site Area	
Net Acres	0.47

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence(s)	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
North	Apartment Complex	ML (Medium Low Density Residential)	R-3 (Medium Density Residential)
South	Apartment Complex	ML (Medium Low Density Residential)	R-PD16 (Residential Planned Development 16 Units per Acre)
East	Single-Family Residence	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
West	Vacant Land	ML (Medium Low Density Residential)	R-1 (Single Family Residential)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan			
West Las Vegas Plan	X		Y
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District 140 feet	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

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DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/ Allowed</i>	<i>Provided</i>		<i>Compliance</i>
		<i>Lot 1</i>	<i>Lot 2</i>	
Min. Lot Size	6,500 s.f.	8,796 s.f.	10,883 s.f.	Y
Min. Lot Width	65 ft.	100 ft.	100 ft.	Y
Min. Setbacks				
• Front	20 ft.	38.42 ft.	65.42 ft.	Y
• Side	5 ft.	5.33 ft.	6.75 ft.	Y
• Corner	15 ft.	N/A	N/A	N/A
• Rear	15 ft.	*13.17 ft.	*12.17 ft.	*N
Min. Distance Between Buildings	10 ft.	25.75 ft.		Y
Max. Lot Coverage	50%	13%	8%	Y

**The applicant is requesting a Variance to allow for a 13-foot rear yard setback on proposed lot one, and a 12-foot rear yard setback on proposed lot two.*

ANALYSIS

This request is for a Variance to allow a 13-foot rear yard setback on proposed lot one, and a 12-foot rear yard setback on proposed lot two where 15 feet rear yard setbacks are required in a R-1 (Single Family Residential) zoning district. The site currently has two single-family residences constructed on the site. The original home was constructed in 1950, and no building permits were found on file for the second structure. The applicant is seeking the rear yard Variances in order to be able to split this parcel into two separate parcels, each with a single-family residence on it. Proposed lot one, with a 13-foot rear yard setback demonstrates a 12 percent deviation from the 15-foot rear yard setback standard, and proposed lot two demonstrates a 19 percent deviation from the 15-foot rear yard setback standard.

As proposed, lot one is 9,396 square feet, with a 1,102 square-foot single-family residence on it. As proposed, lot two is 10,190 square feet, with an 859 square-foot single-family residence on it. No floor plans, or elevations of the two structures (proposed single-family residences) were submitted with this application.

The lot size of this parcel is 19,787 square feet. An R-1 (Single Family Residential) district permits a lot size of 6,500 square feet. Therefore, adequate square-footage is available for this parcel to be divided into two while still satisfying the minimum development requirements for an R-1 (Single Family Residence) district. Subsequently, the second home could have been constructed in compliance with Title 19.08 Development Standards for an R-1 (Single Family Residence) zoned district. Also, the applicant was granted a previous Variance (VAR-12658) for the requested 12-foot and 13-foot rear yard setbacks on 05/11/06, but that Variance was allowed to expire. Due to the self-imposed hardship created by the applicant, staff is recommending denial of this application.

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West Las Vegas Plan

The largest existing land use category within the West Las Vegas Plan is residential, and the largest residential category is single-family residential, which consists of detached homes on individual lots, accounting for 71 percent of all properties designated as residential within West Las Vegas. One of the primary goals of the west Las Vegas Plan is to ensure that development on vacant or underutilized lots within existing residential neighborhoods be sensitive in use and design to surrounding development.

Airport Overlay District

No structure shall be erected, altered or maintained on any parcel within the boundaries of the Airport Overlay District that would violate the height limitations defined by the McCarran Airport Overlay Map and the North Las Vegas Airport Overlay Map. The subject site is within the 140-foot contour limitations of the North Las Vegas Airport Overlay Map and does not violate the height limitations. The proposed use does not alter the structure in any way and is in compliance with the Airport Overlay District.

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 constructing the second home on the site before the parcel had been divided. Alternative site design 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 19**ASSEMBLY DISTRICT** 6**SENATE DISTRICT** 4**NOTICES MAILED** 274**APPROVALS** 0**PROTESTS** 1