



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: AUGUST 14, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-28518 - APPLICANT/OWNER: THE VAN EATON TRUST
9-22-07

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the Conditions of Approval for Rezoning (Z-0056-02), and Site Development Plan Review (SDR-1007) shall be required, if approved.
2. This approval shall be void two years 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a 1,200 square-foot detached Accessory Structure, Class II (garage), where a maximum of 973.5 feet is permitted on 0.28 acres at 6933 Hawaiian Sky Court. The applicant is requesting a Variance in order to construct a Tuff Shed three-car garage in the rear yard. The proposed structure will not have electrical or plumbing. The existing patio cover attached to the home will be eliminated to accommodate the new structure. In addition, the applicant has received approval for the proposed Class II Structure from his Home Owners Association (HOA).

This is a self-imposed hardship due to the applicants design choice; therefore, staff is recommending denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
09/04/02	The City Council approved a request for Rezoning (Z-0056-02) from R-E (Residence Estates) to R-1 (Single Family Residential) and R-PD6 (Residential Planned Development 6 Units per Acre) on 37 acres located adjacent to the west side of Decatur Boulevard between Deer Springs Way and Dorrell Lane. Staff and the Planning Commission recommended approval
11/02/02	The City Council approved a request for a Site Development Plan Review (SDR-1007) for a 59-lot single-family residential development on approximately 19 acres adjacent to the northwest corner of Thom Boulevard and Deer Springs Way. Staff and the Planning Commission recommended approval.
11/21/02	The Planning Commission approved a request for a Tentative Map (TMP-1035) for a 59-unit single-family residential subdivision on 19.5 acres adjacent to the northeast corner of Thom Boulevard and Deer Springs Way. Staff recommended approval.
02/04/03	A request for a Final Map Technical Review (FMP-1806) for a 59-lot single-family residential subdivision on property located north of Deer Springs Way and west of Thom Boulevard. The Final Map was recorded on 4/23/03.
<i>Related Building Permits/Business Licenses</i>	
06/19/03	A building permit (#3011158) was issued for a single-family dwelling. The permit was finalized on 10/21/03.
06/09/05	A building permit (#44526) was issued for an aluminum patio cover. The permit was finalized on 6/24/05.

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Pre-Application Meeting	
05/28/08	A pre-application meeting was held with staff to discuss Title 19.08.040 requirements for an Accessory Structure, Class II, along with submittal requirements for the Variance.
Neighborhood Meeting	
A neighborhood meeting was not held, nor was one required.	

Field Check	
06/18/08	Staff conducted a field check of the proposed site. It appeared that the applicant had several vehicles parked in the rear yard, including one parked under the patio cover.

Details of Application Request	
Site Area	
Gross Acres	0.28

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residential	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
North	Single-Family Residential	ML (Medium Low Density Residential)	R-E (Residence Estates)
South	Single-Family Residential	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
East	Single-Family Residential	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residential	ML (Medium Low Density Residential)	R-E (Residence Estates)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
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

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Pursuant to Title 19.08.040 (Accessory Structures), the following Development Standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 sq. ft.	12,403 sq. ft	Y
Max. Lot Coverage (Rear Yard)	50%	20.2%	Y*
Max. Total Lot Coverage	50%	29.94%	Y**
Min. Setbacks			
• Front	N/A	N/A	N/A
• Side	5 feet	5 feet	Y
• Rear	5 feet	5 feet	Y
Distance from Primary Structure	6 feet	16 feet	Y
Max. Building Height (Accessory Structure)	18 feet (main dwelling height)	13.5 feet	Y***
Max. Accessory Structure Size (50% of 1,947 sq. ft. primary structure)	973.5 feet	1,200 feet	N****

* Per Title 19.08.040(c), the main aggregate total of the ground floor areas of all accessory buildings shall not cover more than 50 percent of the rear yard. The total rear yard is approximately 5,925 square feet. The accessory structure is 1,200 square feet, which would cover approximately 20.2 percent of the rear yard.

** Per Title 19.08.040(A) (Table 1), the percentage of lot area covered by all buildings and structures after the area for dedicated public right-of-way is subtracted, shall not exceed 50 percent within an R-1 zoning district. The principal dwelling is 1,947 square feet with an attached garage, which is 567 square feet. If the proposed 1,200 square-foot accessory structure is approved, the total of all buildings and structures on the lot equals 3,714 square feet, covering 29.94 percent of the entire lot.

*** Per Title 19.08.040(b), the height of a detached accessory structure cannot exceed two stories in height (with a maximum of 35 feet), or the height of the main dwelling, whichever is less. The principal dwelling is 18 feet tall and the proposed accessory structure is 13.5 feet in height.

**** Per Title 19.08.040(c), the total floor area of all accessory structures shall not exceed 50 percent of the floor area of the principal dwelling unit constructed on the same lot. The principal dwelling unit is 1,947 (excluding the square footage of the attached garage), with the proposed accessory structure 1,200 square feet in size. The maximum allowable square-footage of the accessory structure cannot exceed 973.5 feet, which is 50 percent of the principal dwelling unit.

ANALYSIS

The applicant is seeking approval to construct a 1,200 square-foot, 13.5 feet high Accessory Structure, Class II (garage) in the backyard of an existing 1,947 square-foot single-family dwelling (with an attached 567 square-foot garage) located at 6933 Hawaiian Sky Court. The

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proposed structure complies with required setbacks from the side and rear property lines and distance from the primary structure. Although it will only occupy 20.2 percent of the rear yard, the proposal does not meet the size restrictions as listed in Title 19.08.040. The propose 1,200 square-foot Accessory Structure, Class II exceeds 50 percent of the floor area of the principal dwelling unit (1,947 sq. ft) constructed on the same lot per Title 19.08.040.

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 an Accessory Structure, Class II in the rear yard that exceeds 50 percent of the square-footage of the main dwelling. An alternative design to a smaller garage 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

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ASSEMBLY DISTRICT 13

<u>SENATE DISTRICT</u>	9
<u>NOTICES MAILED</u>	221
<u>APPROVALS</u>	3
<u>PROTESTS</u>	2