



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-29226 - APPLICANT/OWNER: CURTIS THEW**

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

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

**Planning and Development**

1. 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 request is for a Variance to allow a five-foot side yard setback where 10 feet is the minimum required on an R-E (Residence Estates) zoned property at 2231 Jamaica Court. The applicant is requesting this Variance in order to accommodate a 975.5 square-foot second-story addition to the existing 5,119 square-foot single-story residence for a total of approximately 6,095 habitable square feet. This is a 50 percent deviation from the standard. The addition would be constructed above the existing three-car garage.

Due to the self-imposed hardship created by the applicant, staff is recommending denial of this application.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
11/23/98	The City Council approved a request to Amend a portion of the Southwest Sector of the General Plan (GPA-0027-98) 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). The Planning Commission recommended approval.
<b><i>Related Building Permits/Business Licenses</i></b>	
07/12/05	A building permit (#5004755) was issued for the construction of a single-family dwelling with two fireplaces at 2231 Jamaica Court. The permit was finalized on 06/12/06.
09/30/05	A building permit (#51717) was issued for the excavation of a pool at 2231 Jamaica Court. The permit was finalized on 09/30/05.
01/10/06	A building permit (#57405) was issued for a pool/spa at 2231 Jamaica Court. The permit was finalized on 07/21/06.
03/09/06	A building permit (#61184) was issued for a CMU screen wall at 2231 Jamaica Court. The permit was finalized on 07/21/06.
05/17/06	A building permit (#65570) was issued for the installation of sewer and water lines for a future pool house at 2231 Jamaica Court.
<b><i>Pre-Application Meeting</i></b>	
07/15/08	A pre-application meeting was held where submittal requirements for a Variance for a five-foot side yard setback were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

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<i>Field Check</i>	
08/05/08	A routine field check was performed where staff was unable to gain access to the gated community. From the gate, staff was only able to observe the far north end of the residence. No notable concerns were observed by staff from that viewpoint. The home appeared to be well-maintained. The subject site is located within a gated community of eight homes.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.47

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single-Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Single-Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Single-Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single-Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)

<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>	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>	X		Y
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**Rural Preservation Overlay District**

It is the intent of the Rural Preservation Overlay District to:

1. Ensure that the rural character of each rural preservation neighborhood is preserved.
2. Unless a rural preservation neighborhood is located within three hundred thirty feet of an existing or proposed street or highway that is more than ninety-nine feet wide, maintain the rural character of the area developed as a low density residential development.

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3. Provide adequate buffer areas, adequate screening and an orderly and efficient transition of land uses, excluding raising or keeping animals commercially or non-commercially.
4. Establish a basis for the modification of standards for the development of infrastructure to maintain the rural character of the rural preservation neighborhood.

This Variance application does not impact the intentions of the Rural Preservation Overlay District.

**DEVELOPMENT STANDARDS**

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 s.f	20,298 s.f.	Y
Min. Setbacks			
• Front	50 ft.	50 ft.	Y
• Side	10 ft.	*5 ft.	*N
• Corner	15 ft.	N/A	N/A
• Rear	35 ft.	35 ft.	Y
Max. Building Height	2 stories or 35 feet, whichever is less.	20 ft.	Y

*\*The applicant has requested a Variance to allow a five-foot side yard setback where 10 feet is the minimum required to accommodate an addition to the existing single-family residence.*

**ANALYSIS**

The applicant is requesting this Variance to allow a five-foot side yard setback where 10 feet is the minimum required on an R-E (Residence Estates) zoned property in order to accommodate a 975.5 square-foot second-story addition to the existing 5,119 square-foot single-story residence for a total of approximately 6,095 habitable square feet. The proposed addition would be constructed above the existing three-car garage and would extend the garage into the required 10-foot side yard setback by five feet, reducing the side yard setback to five feet. This extension of the garage is necessary in order to accommodate an interior staircase that would be constructed giving the home owner interior access from the existing home to the second story addition. This second story addition would consist of a loft area with two bedrooms with walk-in closets, and two full bathrooms. As stated by the applicant in his justification letter, his family has recently grown to a total of six and this addition would give him the needed additional bedrooms for his daughters.

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Although staff understands the applicants desire to expand his current home, alternate site design would have allowed for an addition to the existing home without having to compromise the required side yard setback. Due to this self-imposed hardship created by the applicant, staff is recommending denial of this application.

**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 addition that encroaches on the required side yard setback. 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**

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**ASSEMBLY DISTRICT**      2

**SENATE DISTRICT**      8

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**NOTICES MAILED**            83

**APPROVALS**                    1

**PROTESTS**                     2