

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-29238 - APPLICANT: MICHAEL AND JENNI CARR -
OWNER: CARR FAMILY TRUST

**** 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.
2. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit showing one 24-inch box tree every 20 feet on center, and four shrubs per tree within the planter area per Title 19.12 perimeter landscape standards. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow the construction of a 12-foot split-face CMU block wall at 1840 South Tomsik Street, where eight feet is the maximum height allowed. The proposed 12-foot wall would be constructed along the north perimeter of the property, adjacent to Oakey Boulevard. Due to the existing grade conditions of their home site and the existing slope of Oakey Boulevard, the applicant is requesting this Variance in order to provide adequate screening from the adjacent residences and privacy from Oakey Boulevard. The proposed wall would step down as necessary in accordance with the existing grade changes. The applicant has also proposed a two-foot planter wall to be constructed five feet in front of the proposed 12-foot wall tapering down to zero feet in relation to the retaining portion of the wall to visually reduce the impact of the proposed 12-foot wall. The proposed 12-foot wall depicts a 34 percent deviation from the maximum eight-foot height allowed.

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>	
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.
01/22/03	The City Council approved a request for a Variance (VAR-1223) to allow an eight-foot tall fence along the front property line where a four-foot tall fence is the maximum height allowed; and to allow an eight-foot tall solid block wall within the front yard area where the maximum wall height is four-foot tall adjacent to the east side of Tomsik Street, between Oakey Boulevard and El Parque Avenue. The Planning Commission recommended approval.
<i>Related Building Permits/Business Licenses</i>	
04/24/08	A building permit (#95402) was issued for a single-family dwelling at 1840 South Tomsik Street.
<i>Pre-Application Meeting</i>	
07/15/08	A pre-application meeting was held where submittal requirements for a Variance for a 12-foot wall were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

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Field Check	
08/05/08	A routine field check was performed where staff observed a custom home currently under construction and the existing eight-foot wall along Oakey Boulevard that the applicant has proposed to replace with the 12-foot wall.

Details of Application Request	
Site Area	
Gross Acres	1.09

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	L (Low Density Residential)	R-1 (Single Family Residential)
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-PD1 (Residential Planned Development 1 Unit per Acre)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		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.
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.

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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	47,379 s.f.	Y
Min. Lot Width	100 ft.	158 ft.	Y
Min. Setbacks			
• Front	50 ft.	50 ft.	Y
• Side	10 ft.	10 ft.	Y
• Corner	15 ft.	N/A	N/A
• Rear	35 ft.	43 ft.	Y
Max. Building Height	2 stories or 35 feet, whichever is less.	34.83 ft.	Y

ANALYSIS

This is a request for a Variance to allow the construction of a 12-foot split-face CMU block wall on an R-E (Residence Estates) zoned 1.09 acre lot at 1840 South Tomsik Street, where 8 feet is the maximum height allowed. The proposed 12-foot wall would be constructed along the north perimeter of the property, adjacent to Oakey Boulevard, approximately 156.75 feet in length. Due to the existing grade conditions of their home site and the existing slope of Oakey Boulevard, the applicant is requesting this Variance in order to provide adequate screening from the adjacent residences and privacy from Oakey Boulevard. The applicants custom home is currently under construction and at completion will have a height of 32.83 feet. The applicants do not feel the existing eight-foot wall along Oakey Boulevard provides adequate screening for their home.

The proposed wall would step down as necessary in accordance with the existing grade changes. The applicant has also proposed a two-foot planter wall to be constructed five feet in front of the proposed 12-foot wall tapering down to zero feet in relation to the retaining portion of the wall to visually reduce the impact of the proposed 12-foot wall. The proposed 12-foot wall depicts a 34 percent deviation from the maximum eight-foot height allowed.

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

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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 constructing a home and proposing a 12-foot wall that exceeds Title 19 standards for screening and privacy. Alternative site and home 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 0

ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 195

APPROVALS 3

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PROTESTS

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