



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: OCTOBER 9, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-29604 APPLICANT: DAVID MARQUIS - OWNER:**  
**MARQUIS FAMILY REVOCABLE LIVING TRUST**

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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 three-foot side yard setback where five feet is the minimum required on an R-PD3 (Residential Planned Development 3 Units per Acre) zoned property at 5001 Wild Thyme Avenue. The applicant is requesting this Variance to accommodate a 406 square-foot attached garage addition to the existing 2,387 square-foot single-story residence. The residence currently has a 625 square-foot attached garage; this proposed garage addition would provide additional storage space for the applicant. This is a 40 percent deviation from the standard.

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&amp;D, Fire, Bldg., etc.</i>	
03/05/99	The Planning Commission withdrew without prejudice a request for a Rezoning (Z-0016-99) of property located on the west side of Decatur Boulevard, between Elkhorn Road and Dorrell Lane from R-E (Residence Estates) and R-E (Residence Estates) under Resolution of Intent to R-PD2 (Residential Planned Development 2 Units per Acre) to R-PD6 (Residential Planned Development 6 Units per Acre).
08/12/99	The Planning Commission held in abeyance indefinitely a request for a Rezoning (Z-0037-99) on property located on the south side of Elkhorn Road, between Decatur Boulevard and Jeanette Street from R-E (Residence Estates) to R-PD3 (Residential Planned Development 3 Units per Acre) and R-PD5 (Residential Planned Development 5 Units per Acre) for a 260-lot single-family subdivision.
04/04/01	The City Council withdrew without prejudice a request for a Variance (V-0004-01) to allow 30,492 square feet of open space where 43,124 square feet is the minimum required for a 60-lot single-family residential development at the southwest corner of the intersection of Decatur Boulevard and Elkhorn Road. The Planning Commission recommended denial of this application.
05/02/01	The City Council approved a request for Rezoning (Z-0005-01) from R-E (Residence Estates) to R-PD3 (Residential Planned Development 3 Units per Acre) at the southwest corner of the intersection of Decatur Boulevard and Elkhorn Road. The Planning Commission recommended approval of this application.

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05/02/01	The City Council approved a request for a Site Development Plan Review [Z-0005-01(1)] for a proposed 60-lot single-family residential development at the southwest corner of the intersection of Decatur Boulevard and Elkhorn Road. The Planning Commission recommended denial of this application.
11/26/01	A Final Map (FM-0061-01) was administratively approved for Mystic Valley II at the southwest corner of the intersection of Decatur Boulevard and Elkhorn Road.
<b>Related Building Permits/Business Licenses</b>	
09/12/02	A building permit (#2016430) was issued for a single-family dwelling at 5001 Wild Thyme. The permit was finalized on 12/06/02.
12/12/02	A building permit (#2022253) was issued for a pool at 5001 Wild Thyme. The permit was finalized on 04/25/03.
04/16/03	A building permit (#3007514) was issued for a patio cover at 5001 Wild Thyme. The permit expired on 11/01/03.
02/03/06	A building permit (#59176) was issued for minor electrical for an above-ground fiberglass spa at 5001 Wild Thyme. The permit expired on 09/06/06.
<b>Pre-Application Meeting</b>	
08/13/08	A pre-application meeting was held where the submittal requirements for a side yard setback Variance were discussed.
<b>Neighborhood Meeting</b>	
A neighborhood meeting was not required, nor was one held.	
<b>Field Check</b>	
09/02/08	A routine field check revealed a well maintained single-family residence. Nothing of concern was noted by staff.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.23

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	ML (Medium Low Density Residential)	R-PD3 (Residential Planned Development 3 Units per Acre)
North	Single-Family Residence	ML (Medium Low Density Residential)	R-PD3 (Residential Planned Development 3 Units per Acre)
South	Vacant Land / Single-Family Residence	L (Low Density Residential)	R-E (Residence Estates) Under Resolution of Intent to R-1 (Single Family Residential)

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East	Single-Family Residence	ML (Medium Low Density Residential)	R-PD3 (Residential Planned Development 3 Units per Acre)
West	Single-Family Residence	ML (Medium Low Density Residential)	R-PD3 (Residential Planned Development 3 Units per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>	X		Y
Centennial Hills Sector Plan	X		Y
Northwest Open Space Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08.040(C)(4), the development standards for a project shall be established by the approval of an R-PD District and the approved Site Development Plan as described in Subchapter 19.18.050. The development standards were established by {Site Development Plan Review [Z-0005-01(1)]} and were approved by the City Council on 05/02/01.*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	10,215 s.f.	10,223 s.f.	Y
Min. Lot Width	95.5 ft.	95.5 ft.	Y
Min. Setbacks			
• Front	18 ft.	21 ft.	Y
• Side	5 ft.	3 ft.*	N*
• Corner	10 ft.	N/A	Y
• Rear	15 ft.	39 ft.	Y
Max. Building Height	Single Story or 15.25 feet, whichever is less**	15.25 ft.	Y

*\*The applicant is requesting a Variance to allow a 3-foot side yard setback where 5 feet is required.*

*\*\*Per Title 19.20, building height refers to the average height level between the eaves and ridge line of a gable, hip or gambrel roof.*

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## **ANALYSIS**

The applicant is requesting this Variance to allow a three-foot side yard setback where five feet is the minimum required on an R-PD3 (Residential Planned Development 3 Units per Acre) zoned property in order to accommodate a 406 square-foot garage addition to the existing 2,387 square-foot single-story residence. The proposed garage addition would be in addition to the existing 635 square-foot garage. The proposed garage would be on the east side of the single-family residence, extending the east side of the home into the required five-foot side yard setback, there by reducing the side yard setback to 3 feet. As stated by the applicant in his justification letter, the garage addition would have a stucco finish and tile roof to match the existing residence. The garage addition would also be the same height as the existing single-family residence, 15.25 feet. The proposed 3-foot side yard setback constitutes a 40 percent deviation from the standard.

Alternate site design would have allowed for the garage 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 a garage addition that encroaches upon 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** 9

**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 221

**APPROVALS** 2

**PROTESTS** 1