



**AGENDA MEMO**

**CITY COUNCIL MEETING DATE:       OCTOBER 15, 2008**  
**DEPARTMENT:       PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-29028 - APPLICANT/OWNER: HARMONY 2, LLC, ET AL**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 3, 2008 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

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

Staff recommends DENIAL. The Planning Commission (6-1/sd vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-4368), Vacation (VAC-4420) and Site Development Plan Review (SDR-29026) shall be required, if approved.
  
2. 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.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow 43,996 square feet of open space where 50,094 square feet are required for a 70-lot residential subdivision on a 10.52 acre site on the east side of Tonkinese Avenue and Hualapai Way.

The benefit for allowing greater density is the provision of an imaginative layout and design, in which an intrinsic component is the provision of open space. Clearly, this applicant wishes to have the density advantage offered by R-PD zoning without providing any offsetting benefit to the community at large; therefore staff recommends denial.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
08/08/02	Petition to Annex (A-0035-02) parcels of land generally located adjacent to the southeast corner of Grand Teton Drive and Puli Road, containing approximately 1,187 acres
09/15/04	The City Council approved a Rezoning (ZON-4368) to R-PD7 (Residential Planned Development 7 Units per Acre), a Site Development Plan Review (SDR-4370) for a 68-lot single-family development and a Vacation (VAC-4420) of U. S. Government Patent Easements and the Donald Nelson Avenue Right of Way, generally located west of Hualapai Way, north of Farm Road on this site. The Planning Commission and staff recommended approval on July 22, 2004. An approved condition was added modifying the lot number to 69.
11/07/04	The Planning Commission approved the Request for a Tentative Map (TMP-4920) for a 69-lot single-family residential subdivision on 10.52 acres adjacent to the northwest corner of Farm Road and Hualapai Way
11/19/04	City Council approved a Review of Condition (ROC-5445) Number 5 of an approved Site Development Plan Review (SDR-4370) to allow a 5 foot side yard setback where 10 feet is the minimum setback required for lots that have a side property line adjacent to Hualapai Way (lots 3, 4, 9, 10, 15 and 16 on the approved site plan) for an approved 68 lot single family development on 10.52 acres adjacent to the northwest corner of Farm Road and Hualapai Way. Planning Commission and staff recommended approval.
11/03/05	Staff administratively approved an Extension of Time (EOT-9361) of an approved Vacation (VAC-4420) of U. S. Government Patent Easements and the Donald Nelson Avenue Right of Way, generally located west of Hualapai Way, north of Farm Road

08/04/06	A Final Map (FMP-10106) was recorded for a 68-lot single-family residential subdivision on 10.00 acres adjacent to the northwest corner of Farm Road and Hualapai Way.
08/28/08	The Planning Commission recommended approval of companion items SDR-29026 concurrently with this application.  The Planning Commission voted 6-1/sd to recommend APPROVAL (PC Agenda Item #28/jm).
<b>Related Building Permits/Business Licenses</b>	
07/25/08	A business license (#C11-10826) was issued for a contractor at 7651 Anatolian Street.
<b>Pre-Application Meeting</b>	
07/02/08	A pre-application meeting was held with the applicant. The applicant proposed modifying the existing Site Development Plan Review, reducing the common area and adding two more lots to the site. Staff indicated that this would require a new Site Development Plan Review and a Variance for Open Space. Submittal requirements were then discussed in detail.

<b>Field Check</b>	
08/08/08	A field check was made on site showing significant grading, interior paved streets, exterior walls and a 20-foot wide Multi-Use Trail along Hualapai Way. There are two model homes on the site with a parking lot. The exterior walls provided do not meet Title 19.12.075(G) Wall Standards requiring a wall to be composed of a minimum of twenty percent contrasting material.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	10.52

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	PCD (Planned Community Development)	R-PD7 (Residential Planned Development 7 Units per Acre)
North	Single-Family Residential, Undeveloped	PCD (Planned Community Development)	PD (Planned Development) [ML (Medium Low Density Residential)Cliffs Edge Special Land Use Designation]
South	Single-Family Residential, Undeveloped	PCD (Planned Community Development)	PD (Planned Development) [RSL (Residential Small Lot) Cliffs Edge Special Land Use Designation]

East	Single-Family Residential, Park	PCD (Planned Community Development) and PR-OS (Parks/Recreation/Open Space)	PD (Planned Development) [ML (Medium Low Density Residential) Cliffs Edge Special Land Use Designation] and C-V (Civic)
West	Single-Family Residential, Undeveloped	PCD (Planned Community Development)	PD (Planned Development) [ML (Medium Low Density Residential) Cliffs Edge Special Land Use Designation]

<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	N/A
<b>Trails</b>	X		Y*
<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

\*A Multi-use Transportation Trail exists for the west side of Hualapai Way.

**Pursuant to Title 19.06.040 (G), the following open space standards apply:**

<b>Open Space</b>						
<b>Total Acreage</b>	<b>Density</b>	<b>Required</b>		<b>Provided</b>		<b>Compliance</b>
		<b>Percent</b>	<b>Area</b>	<b>Percent</b>	<b>Area</b>	
10.52 acres	6.65 du/ac	10.9%	50,094 SF	9.6%	43,996 SF	N*

## ANALYSIS

The proposed project is consistent with portions of Title 19.06 development standards. However, the development does not comply with the open space requirements in Title 19 for the R-PD (Residential Planned Development) zoning district. Open space is an integral part of the R-PD zone, as the developer receives flexibility in design and density for the provision of amenities, such as open space. When open space is not provided, in effect, the project does not meet the standards for the zoning district in which it is located.

The alternative for allowing greater density is the provision of an imaginative layout and design, in which an intrinsic component is the provision of open space. Clearly, this applicant wishes to have the density advantage offered by R-PD zoning without providing any offsetting benefit to the community at large.

## **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 designing a subdivision with less than the required open space. 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

**SENATE DISTRICT** 9

**NOTICES MAILED**            381 by City Clerk

**APPROVALS**                 2

**PROTESTS**                    0