

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: NOVEMBER 6, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - VAR-29958 - APPLICANT: PAGEANTRY
HOMES - OWNER: RANCHO PARK RESIDENTIAL, LLC

**** CONDITIONS ****

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

Planning and Development

1. Conformance to the conditions for Site Development Plan Review (SDR-29658) and Variance (VAR-29663), if approved.
2. In lieu of compliance with the open space requirements of Municipal Code 19.06.040, the developer will be allowed to make a contribution To Whom It May Concern: the City of Las Vegas Parks CIP Fund in the amount of \$160,300 to be utilized by the City Council for improvements to existing public parks nearby. This contribution must be made to Land Development prior to approval of a Final Map; otherwise the developer is still required to comply with the Open Space requirement in accordance with Title 19 of the Las Vegas Municipal Code.
3. 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 426,888 square feet of open space in a Residential Planned Development district where 466,963 square feet is required on 33.47 acres at the northwest corner of Rancho Drive and Smoke Ranch Road. The subject property is adjacent to existing commercial/industrial uses, single-family residences and the North Las Vegas Airport.

In addition to this request, the applicant has submitted a Rezoning (ZON-29661) to change the zoning designation from C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development 16 Units per Acre) to R-PD20 (Residential Planned Development 20 Units per Acre), a Variance (VAR-29663) to allow 1,185 parking spaces where 1,228 parking spaces are required and a Site Development Plan Review (SDR-29658) for a proposed two and three-story multi-family development consisting of 347 Condominium units and 304 apartment units. The subject property has already received approvals for a less-intense, 535-unit condominium development on the subject site without the need for a Variance request. Staff finds that the applicant is choosing to have the density advantage offered by R-PD zoning without providing any offsetting benefit to the community at large; therefore, denial of this request is recommended.

Please note that the applicant has revised the site plan and landscape plan from the original submittal on 08/26/08. The revised site and landscape plans, date stamped 10/03/08, remove three condominium units from the original submitted plans and provide one additional pool/recreation area, increasing the amount of open space provided.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
06/21/89	The City Council approved a Special Use Permit (U-0054-89) for a 12-foot by 24-foot OffPremise Advertising (Billboard) Sign to a height of 40 feet, on property located on the west side of Rancho Drive, approximately 425 feet north of Smoke Ranch Road. The Board of Zoning Adjustment recommended approval of this request.
08/21/91	The City Council approved a Variance (V-0081-91) to allow a three-sided billboard on property located on the northeast corner of Smoke Ranch Road and Decatur Boulevard. This Variance was never exercised. The Board of Zoning Adjustment took no action due to a tie vote.
07/20/94	The City Council approved a Five-Year Review [U-0054-89(1)] on an approved 12 foot by 24 foot OffPremise Advertising (Billboard) Sign to a height of 40 feet, on property located on the west side of Rancho Drive, approximately 425 feet north of Smoke Ranch Road. The Board of Zoning Adjustment recommended approval of this request.

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09/20/95	The City Council approved a Special Use Permit (U-0092-95) for two (2) OffPremise Advertising (Billboard) Signs on the west side of Rancho Drive north of Smoke Ranch Road. The Board of Zoning Adjustment recommended approval of this request.
11/01/00	The City Council accepted the Withdrawal of a Five Year Review [U-0092-95(1)] for two (2) OffPremise Advertising (Billboard) Signs on west side of Rancho Drive, approximately 350 and 1,100 feet north of Smoke Ranch Road. The Planning Commission and staff recommended approval of this request.
08/01/01	The City Council approved an appeal of a Planning Commission denial for a Special Use Permit (U-0059-01) for five (5) OffPremise Advertising (Billboard) Signs on the south side of the intersection of Rancho Drive and Decatur Boulevard subject to a Two-Year Review. The Planning Commission denied the request, whereas staff recommended approval.
12/20/01	The Planning Commission approved a Tentative Map (TM-0049-01) for a 1-lot commercial subdivision on the subject site. Staff recommended approval of this request.
02/19/03	The City Council approved a General Plan Amendment (GPA-1400) and a Rezoning (ZON-1401) on 48.49 acres adjacent to the northeast corner of Decatur Boulevard and Smoke Ranch Road. On 01/23/03, the Planning Commission recommended approval of the Rezoning application, but failed to achieve a super majority on the General Plan Amendment.
02/19/03	The City Council approved a Site Development Plan Review (SDR-1404) for a proposed commercial/industrial development on 14.45 acres consisting of an 18,500 square-foot office building on 1.85 acres adjacent to the west side of Rancho Drive approximately 320 feet south of Decatur Boulevard intersection, and a 166,900 square-foot commercial/industrial development on 12.6 acres adjacent to the northeast corner of Decatur Boulevard and Smoke Ranch Road. The Planning Commission recommended approval, whereas staff recommended denial of this application.
05/21/03	The City Council approved a required Two-Year Review (RQR-1994) for an approved Special Use Permit (U-0059-01) for five OffPremise Advertising (Billboard) Signs adjacent to the northeast corner of Smoke Ranch Road and Decatur Boulevard. The Planning Commission and staff recommended approval of this request.
06/02/03	The Department of Planning and Development administratively approved a Site Development Plan Review (SDR-2394) for a 3,000 square-foot second floor addition to an approved 18,500 square-foot office building on 1.85 acres adjacent to the west side of Rancho Drive, approximately 320 feet south of Decatur Boulevard.
06/24/04	The Planning Commission approved a Master Sign Plan (MSP-4388) application for an approved commercial/industrial development on 47.93 acres adjacent to the northeast corner of Decatur Boulevard and Smoke Ranch Drive. Staff recommended approval of this request.

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07/07/04	The City Council approved a required Two-Year Review (RQR-4239) for an approved Special Use Permit (U-0059-01) for five (5) OffPremise Advertising (Billboard) Signs adjacent to the northeast corner of Smoke Ranch Road and Decatur Boulevard. The Planning Commission and staff recommended approval of this request.
12/02/04	The Planning Commission approved a Site Development Plan Review (SDR5312) application for a proposed 40,016 square-foot office complex consisting of eight single-story buildings on 3.30 acres adjacent to the east side of Decatur Boulevard, approximately 875 feet north of Smoke Ranch Road. Staff recommended approval of this request.
04/06/05	The City Council approved a request for a Site Development Plan Review (SDR-5916) for a proposed 5,000 square-foot Liquor Establishment (Tavern) on a 1.34 acre portion of a 31.42 acre site adjacent to the west side of Rancho Drive, approximately 250 feet north of Smoke Ranch Road. The Planning Commission recommended approval, whereas staff recommended denial of this request.
09/07/05	The City Council approved a required One-Year Review (RQR-6794) of an approved Special Use Permit (U-0059-01) for two 14-Foot x 48-Foot Off-Premise Advertising (Billboard) Signs adjacent to the northeast corner of Smoke Ranch Road and Decatur Boulevard. The Planning Commission and staff recommended denial of this request.
3/01/06	The City Council approved a General Plan Amendment to amend a portion of the Southeast Sector Plan of the Master Plan from L-I/R (Light Industry/Research) to M (Medium Density Residential), a Rezoning from C-M (Commercial/Industrial) to R-PD16 (Residential Planned Development 16 Units per Acre) and a Site Development Plan Review (SDR-10806) for a 513-unit condominium development on 33.70 acres adjacent to the east side of Decatur Boulevard, approximately 900 feet north of Smoke Ranch Road. The Planning Commission recommended approval whereas staff recommended denial of this request.
03/23/06	The Planning Commission approved a Tentative Map (TMP-11703) for a 513-unit condominium subdivision on 33.70 acres adjacent to the east side of Decatur Boulevard, approximately 900 feet north of Smoke Ranch Road. Staff recommended approval of this request.
08/01/06	A Code Enforcement Citation (#45071) was issued for weeds/grass and refuse code violations for property located at the northeast corner of Smoke Ranch Road and Rancho Drive. The case was resolved 08/31/06.
12/20/06	The City Council approved a required One-Year Review (RQR-17040) of an approved Special Use Permit (U-0059-01) which allowed two 14-foot x 48-foot Off-Premise Advertising (Billboard) Signs at the northeast corner of Smoke Ranch Road and Decatur Boulevard. The Planning Commission and staff recommended approval of this request.

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06/06/07	The City Council approved a Rezoning (ZON-20512) from C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development - 16 Units per Acre) to R-PD16 (Residential Planned Development - 16 Units per Acre) and a Site Development Plan Review (SDR-20523) for a proposed 535-unit condominium development on 33.52 acres adjacent to the east side of Decatur Boulevard, approximately 900 feet north of Smoke Ranch Road. The Planning Commission and staff recommend approval of these requests.
06/28/07	The Planning Commission approved a Tentative Map (TMP-21699) for a 535-unit condominium development on 33.52 acres adjacent to the east side of Decatur Boulevard, approximately 900 feet north of Smoke Ranch Road. Staff recommended approval of this request.
05/21/08	The City Council approved an Extension of Time (EOT-27588) of an approved Rezoning from C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development - 16 Units per Acre) to R-PD16 (Residential Planned Development - 16 Units per Acre) and an Extension of Time (EOT-27588) for a proposed 535-unit condominium development on 33.52 acres adjacent to the east side of Decatur Boulevard, approximately 900 feet north of Smoke Ranch Road. Staff recommended approval of these requests.
10/09/08	The Planning Commission held in abeyance a request for a Site Development Plan Review (SDR-29658) for a proposed two and three-story multi-family development consisting of 347 condominium units and 304 apartment units, a Rezoning (ZON-29661) to change the zoning designation from C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development - 16 Units per Acre) to R-PD20 (Residential Planned Development - 20 Units per Acre), a Variance (VAR-29663) to allow 1,185 parking spaces where 1,228 parking spaces are required and a Variance (VAR-29958) to allow 426,888 square feet of open space in a Residential Planned Development district where 466,963 square feet is required on 33.47 acres at the northwest corner of Rancho Drive and Smoke Ranch Road. The abeyance was approved at the applicants request in order to provide a revised site plan allocating additional open space.

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10/23/08	The Planning Commission held in abeyance a request for a Site Development Plan Review (SDR-29658) for a proposed two and three-story multi-family development consisting of 347 condominium units and 304 apartment units, a Rezoning (ZON-29661) to change the zoning designation from C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development - 16 Units per Acre) to R-PD20 (Residential Planned Development - 20 Units per Acre), a Variance (VAR-29663) to allow 1,185 parking spaces where 1,228 parking spaces are required and a Variance (VAR-29958) to allow 426,888 square feet of open space in a Residential Planned Development district where 466,963 square feet is required on 33.47 acres at the northwest corner of Rancho Drive and Smoke Ranch Road. The abeyance was approved at the applicants request in order to allow for further review of the proposed development.
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Related Building Permits/Business Licenses

There are no related building permits or business licenses related to this project. There are no permits on file regarding the demolition or removal of the two existing Off-Premise Signs (Billboards) that were required to be removed as a condition of approval to SDR-20523.

Pre-Application Meeting

08/07/08	A pre-application meeting was held where elements of a Rezoning, Site Development Plan Review, a Variance for parking and a Variance for Open Space within a Residential Planned Development zoning district were discussed.
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Neighborhood Meeting

A neighborhood meeting was not held, nor was one required.

Field Check

09/02/08	A field check was performed by staff at the subject property. The site was noted as undeveloped, relatively flat and graded. Some weeds and debris were noted on site.
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Details of Application Request

Site Area	
Gross Acres	33.47

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped (Approved Through SDR-20523 for a 535-unit Condominium Development)	M (Medium Density Residential)	C-M (Commercial/Industrial) under Resolution of Intent to R-PD16 (Residential Planned Development 16 Units per Acre)

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North	Industrial	LI/R (Light Industry/ Research)	C-M (Commercial/ Industrial)
South	Single-Family Residential	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
	Multi-Family Residential	M (Medium Density Residential)	C-2 (General Commercial)
	Commercial	GC (General Commercial)	C-2 (General Commercial)
East	Airport	Public/Semi-Public City of North Las Vegas	C-2 (General Commercial) and M-2 (General Industrial) City of North Las Vegas
West	Light Industrial	LI/R (Light Industry/ Research)	C-M (Commercial/ Industrial)
	Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (35 Feet)	X		Y*
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

* The subject property is located within the North Las Vegas Airport Overlay within the 35-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.

DEVELOPMENT STANDARDS

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

<i>Open Space R-PD only</i>							
<i>Total Acreage</i>	<i>Density</i>	<i>Required</i>			<i>Provided</i>		<i>Compliance</i>
		<i>Ratio</i>	<i>Percent</i>	<i>Area</i>	<i>Percent</i>	<i>Area</i>	
33.5	19.4	1.65	32%	10.72 ac	29.25%	9.8 ac (2.7% diff)	N*

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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. The proposed development utilizes open space as a buffer between buildings, parking areas and building pods. The only amenities provided are two clubhouses and a few pathways adjacent to a limited amount of buildings. No imaginative or proactive approach has been taken with the design of this open space. The site plan contains a list of amenities which are to be provided; however, many of the components listed are not shown on the site plan itself. Staff finds that the applicant is choosing to have the density advantage offered by R-PD zoning without providing any offsetting benefit to the community at large; therefore, denial of this request is recommended.

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.

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a development with less than the required amount of open space. Alternatively, a reduction in scope of the proposed development 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 5**ASSEMBLY DISTRICT** 7**SENATE DISTRICT** 4**NOTICES MAILED** 244**APPROVALS** 3**PROTESTS** 9