

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: NOVEMBER 6, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: SUP-30250 - APPLICANT/OWNER: ESMIE FRANCIS**

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**\*\* CONDITIONS \*\*****STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for a Group Residential Care Facility use, including parking requirements.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-30789) shall be required, if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Public Works**

5. Meet with the Traffic Engineering Representative for assistance in the possible redesign of the proposed driveway access, on site circulation and parking lot layout prior to the submittal of any construction plans or the issuance of any permits, whichever may occur first.

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

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit to allow for a proposed Group Residential Care Facility (maximum six adults) with a Waiver to allow an 830-foot distance separation from another Group Residential Care Facility at 919 Hazard Avenue.

In addition to this application, the applicant has submitted a Variance (VAR-30789) to allow three parking spaces to back onto a public street where two spaces is the maximum permitted. The need for the Waiver requested and the Variance for parking indicate that the subject property is not an appropriate location for a Group Residential Care Facility; therefore, staff recommends denial of this request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
There are no prior relevant City actions associated with this property.	
<b><i>Related Building Permits/Business Licenses</i></b>	
08/22/05	A building permit (#46266) was issued for a fire sprinkler system at 919 Hazard Avenue. The permit was finalized on 12/27/07.
02/15/06	A building permit (#06001211) was issued for a home/tenant improvement remodel. This permit also changed the occupancy type of the property from single-family R-3 to a residential care/assisted living facility R-4 International Building Code category. The permit was finalized on 12/31/07.
01/08/08	A Non-Work Certificate of Occupancy (#104947) was issued for 919 Hazard Avenue.
08/25/08	A business license application (#A21-93833) was received for a six-bed elderly Group Residential Care Facility. The business license was denied 08/28/08 as it was determined the applicant would need to submit a Special Use Permit before license approval.
<b><i>Pre-Application Meeting</i></b>	
09/08/08	A pre-application meeting was held with the applicant where elements of submitting a Special Use Permit for a Group Residential Care Facility were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not held nor was one required.	
<b><i>Field Check</i></b>	
09/30/08	A field check was performed by staff at the subject property. The property was observed to be a well-kept, two-story single-family home with generally mature front yard landscaping. No Group Residential Care Facility activities were observed at the property at the time of the field check and the property appeared unoccupied.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.15

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)

<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>			
A-O Airport Overlay District (105 Feet)	X		Y*
<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

\* The subject property is located within the North Las Vegas Airport Overlay Map within the 105-foot height limitation contour. The building located on the subject property does not extend beyond this limitation.

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

<b>Parking Requirement</b>							
<b>Use</b>	<b>Gross Floor Area or Number of Units</b>	<b>Required</b>			<b>Provided</b>		<b>Compliance</b>
		<b>Parking Ratio</b>	<b>Parking</b>		<b>Parking</b>		
			Regular	Handi-capped	Regular	Handi-capped	
Group Residential Care Facility	6 Residents	1 Space / 5 Residents, Plus 1 space for the Administrator	3		3		
<b>TOTAL</b>			3		3		N*

\* While the applicant has provided three off-street parking spaces where three are required, the parking configuration does not meet Title 19.10 standards. Title 19.10 permits two spaces per residential property to back onto a public street, where the applicant provides three spaces which back out onto a public street. The applicant has filed an associated Variance (VAR-30789) to allow three parking spaces to back onto a public street where two spaces is the maximum permitted.

<b>Waivers</b>		
<b>Request</b>	<b>Requirement</b>	<b>Staff Recommendation</b>
To allow an 830-foot distance separation from another Group Residential Care Facility	1,500-foot distance separation from a Group Residential Care Facility	Denial

<b>Waiver Information for Distance Separation</b>				
<b>Type of Use</b>	<b>Name (License #)</b>	<b>Address</b>	<b>Required Distance</b>	<b>Distance Provided</b>
Group Residential Care Facility	The Filipino Carehome II, LLC (#A21-00159)	712 Pioneer Street	1,500 Feet	830 Feet
Group Residential Care Facility	Washington Senior Guesthome (#A21-00036)	3709 West Washington Avenue	1,500 Feet	1,275 Feet

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**ANALYSIS**

This is a request to provide a Group Residential Care Facility at 919 Hazard Avenue. The subject property has recently been remodeled, including the provision of fire sprinklers, by the property owner anticipating the use of this property as a Group Residential Care Facility. The applicant states that the Group Residential Care Facility will be used to house six elderly patients who need assistance with care and the activities of daily living. Upon applying for a business license on 08/25/08, the applicant learned of the existence of another Group Residential Care Facility approximately 830 feet to the southwest, which is less than the minimum 1,500-foot distance separation requirement and necessitated the submittal of a Special Use Permit.

An associated Variance (VAR-30789) has been submitted to allow three parking spaces to back onto a public street where two spaces is the maximum permitted. The applicant has also requested a Waiver to allow an 830-foot distance separation from a Group Residential Care Facility where a 1,500-foot distance separation is required to meet the Minimum Special Use Permit Requirements of Title 19.04.010. A review of business licensing confirms that a Group Residential Care Facility is located 830 feet to the southwest, across Washington Avenue, at 712 Pioneer Street. Additionally, a second Group Residential Care Facility is located 1,275 feet to the southwest at 3709 West Washington Avenue. These homes have been licensed since 2007 and 1996, respectively.

At the time the building permits were issued on 02/15/06 for the subject property to convert the existing single-family home to a Group Residential Care Facility, the property met the requirements of Title 19.04. At that time the minimum distance separation was 660 feet from another Group Residential Care Facility. The minimum requirements have since changed to a 1,500-foot minimum distance separation, and at the time an application for a business license was made on 08/25/08 the applicant no longer met the conditional requirements and the submittal of a Special Use Permit is required.

The proposed use is a conditional use in an R-1 (Single Family Residential) zoning district. As the minimum distance separation condition has not been met, the approval of a Special Use Permit is needed. While the applicant is providing a needed service to the community, the standards of Title 19.04 have been established to ensure against oversaturation of Group Residential Care Facilities within single-family neighborhoods. The need for a Waiver and Variance are indications that the subject property is not suitable for a Group Residential Care Facility; therefore, staff recommends denial of this request.

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- **Zoning**

This project is located within the R-1 (Single Family Residential) zoning district. The purpose of this R-1 (Single Family Residential) zoning district is to provide for the development of single-family detached dwellings in a suburban setting. The R-1 (Single Family Residential) zoning district is consistent with the policies of the L (Low Density Residential) category of the General Plan. The subject property carries a General Plan land use designation of L (Low Density Residential).

- **Use**

A Group Residential Care Facility is defined by Title 19.04 as a dwelling of a residential character which is used or intended to be used to provide long-term housing and care for up to ten persons who are aged, infirm, physically or mentally handicapped, or physically dependant, and are living together for the purpose of training, observation, common support, or a combination thereof. The term does not include an individual residential care facility; a facility for transitional living for released offenders, a halfway house for recovering alcohol and drug abusers, a convalescent care facility/nursing home, or any facility which:

1. Provides surgical, medical, psychiatric or other specialized treatment on a regular basis; or
2. Provides housing, care or treatment to persons whose occupancy would constitute a direct threat to the health or safety of other individuals or their property.

- **Minimum Special Use Permit Requirements**

1. The facility must comply on an ongoing basis with all governmental requirements.
2. The facility must be located on a parcel with a minimum size of 6,500 square feet.
3. Off-street parking shall be provided on the basis of at least one space per 5 residents, plus an additional space for the administrator.
4. Indoor common area shall be provided on the basis of a minimum 15 square feet per resident.
5. The facility shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood.
6. No signage, graphics, display or other visual representation that is visible from a public street be used to identify the facility as a Group Residential Care Facility.

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7. A facility may not be located closer than one thousand five hundred feet (measured by means of the shortest distance from property line to property line) from another Group Residential Care Facility, a Facility for Transitional Living for Released Offenders, or a Halfway House for Recovering Alcohol and Drug Abusers, except where there is an intervening street, freeway or drainage channel wider than one hundred feet. The provisions of 19.04.040(B) do not apply to this Condition. However, a waiver of the distance limitation may be obtained from the City Council, after a recommendation from the Planning Commission as follows:
  - a. A public hearing must be conducted by both the Planning Commission and City Council, after notice of hearing has been provided as in the case of a Special Use Permit.
  - b. The applicant must demonstrate to the satisfaction of the Council that:
    - i. Approval of the waiver will not adversely affect the health and safety of the general public or the residents of any existing or proposed facility whose location is being considered in connection with the waiver;
    - ii. The location of the proposed facility in proximity to the facilities whose location is being considered will not inhibit the integration of disabled persons into the community or neighborhood in question;
    - iii. The proposed facility will be operated in compliance with Condition 1;
    - iv. The proposed facility will comply with Conditions 2 through 6 and Condition 8, unless any such condition has been waived in connection with the approval of a Special Use Permit.
  - c. Approval of a waiver may be conditioned upon measures designed to ensure compatibility of the use
8. The number of occupants within a Group Residential Care Facility shall not exceed the following occupancy standards:
  - a. For the first bedroom (deemed to be the largest bedroom), a maximum of two adults (eighteen years of age or older).
  - b. For each bedroom thereafter;
    - i. A maximum of one adult, for bedrooms less than one hundred square feet in area; and
    - ii. A maximum of two adults, for bedrooms one hundred square feet in area or greater.

9. In connection with approval of a Special use Permit, the City Council may waive any of the occupancy standards in Condition 8 for disabled adults if the applicant demonstrates that:
  - a. There will be adequate parking based on the number of occupants;
  - b. The number of occupants will not exceed the number permitted in the zoning district in which the proposed facility is to be located; and
  - c. The facility is adequate to accommodate the number of residents requested, including but not limited to adequate bathroom and kitchen facilities and eating and sleeping areas.
  
10. Conditions 2-9 shall not apply to a Group Residential Care Facility whose proposed location is not closer than one thousand five hundred feet to any of the following uses:
  - a. Another Group Residential Care Facility;
  - b. A Facility for Transitional Living for Released Offenders;
  - c. A Halfway House for Recovering Alcohol and Drug Abusers.

The proposed Group Residential Care Facility does not meet all of the Minimum Special Use Permit Requirements. Specifically, condition number seven cannot be met. Failure to meet this minimum condition is an indication that the subject site is not a suitable location for a Group Residential Care Facility as similar uses exist within a close proximity leading to a saturation of use within the area; therefore, staff recommends denial of this request.

## FINDINGS

The following findings must be made for a Special Use Permit:

- 1. The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The proposed Group Residential Care Facility does not meet the required distance separation requirements and would constitute an increase in land use intensity within the subject neighborhood. While the use is permitted within a single-family residential zoning district, the distance separation requirement was established to prevent oversaturation within established neighborhoods.

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- 2. The subject site is physically suitable for the type and intensity of land use proposed.**

The subject site is not physically suitable for the type and intensity of land use proposed as it located approximately 830 feet from another Group Residential Care Facility where a 1,500-foot distance separation is required.

**3. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

The site gains access from Hazard Avenue, a 51-foot Local Road according to the Master Plan of Streets and Highways. Hazard Avenue in turn accesses Washington Avenue, an 80-foot Secondary Collector, according to the Master Plan of Streets and Highways. Both roadways are adequate in size to meet the requirements of the proposed use.

**4. Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

The County Health Department and other code enforcement agencies will monitor the Group Residential Care Facility; therefore public health and safety will be protected.

**5. The use meets all of the applicable conditions per Title 19.04.**

The proposed Group Residential Care Facility is within 830 feet of another group home. This site constraint does not meet the required distance separation of 1,500 feet between Group Residential Care Facilities per Title 19.04.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED 17**

**ASSEMBLY DISTRICT 6**

**SENATE DISTRICT 4**

**NOTICES MAILED 274**

**APPROVALS 2**

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**PROTESTS 2**