



## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: NOVEMBER 5, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-29014 - APPLICANT/OWNER: MICHAEL FEDERICO**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE OCTOBER 1, 2008 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

### **\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

#### **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.

#### **Public Works**

2. Vehicles are not permitted to park in the 10-foot driveway and shall either be parked completely within the proposed garage addition or on an alternate driveway that is a minimum of 18 feet in length.

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

**PROJECT DESCRIPTION**

This application is a request for a Variance to allow for a 10-foot front yard setback where 50 feet is required at 2061 Diamond Bar Drive. This Variance request has been made in order to accommodate the construction of a garage addition to the existing 4,183 square-foot single-family residence. The addition would be a 511 square-foot two-car garage with a 10.6-foot driveway. The proposed 10-foot front yard setback demonstrates an 80 percent deviation from the required 50-foot front yard setback.

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

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b> |                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/23/98                                                                  | The City Council approved a request for a General Plan Amendment (GPA-0027-98) to amend a portion of the southwest sector of the General Plan 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. |
| 06/26/06                                                                  | Code Enforcement case #43784 at 2061 Diamond Bar Drive for high weeds and grass, and dead shrubs. The case was resolved on 07/05/06.                                                                                                                                                                                                                                       |
| 08/28/08                                                                  | <a href="#">The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #26/ne).</a>                                                                                                                                                                                                                                                                             |
| <b><i>Related Building Permits/Business Licenses</i></b>                  |                                                                                                                                                                                                                                                                                                                                                                            |
| 10/05/89                                                                  | A building permit (#89041769) was issued for a single family dwelling with two fireplaces and sewer work at 2061 Diamond Bar Drive. The permit was finaled on 09/20/90.                                                                                                                                                                                                    |
| 10/06/89                                                                  | A building permit (#89042006) was issued for plumbing at 2061 Diamond Bar Drive. The permit was finaled on 09/20/90.                                                                                                                                                                                                                                                       |
| 01/04/90                                                                  | A building permit (#90052002) was issued for sheet metal work at 2061 Diamond Bar Drive. The permit was finaled on 09/21/90.                                                                                                                                                                                                                                               |
| 04/12/90                                                                  | A building permit (#90064297) was issued for electrical at 2061 Diamond Bar Drive. The permit was finaled on 10/17/90.                                                                                                                                                                                                                                                     |
| 12/28/93                                                                  | A building permit (#93213558) was issued for the installation of a water softener at 2061 Diamond Bar Drive. The permit expired on 07/02/94.                                                                                                                                                                                                                               |
| 01/24/96                                                                  | A building permit (#96001519) was issued for a pool and spa at 2061 Diamond Bar Drive. The permit expired on 08/31/96.                                                                                                                                                                                                                                                     |
| 04/22/05                                                                  | A building permit (#41128) was issued for the replacement of a water heater at 2061 Diamond Bar Drive. The permit expired on 10/21/05.                                                                                                                                                                                                                                     |

| <b><i>Pre-Application Meeting</i></b>                      |                                                                                                                                                |
|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/30/08                                                   | A pre-application meeting was held where the requirements for a Variance application for a front yard setback were explained to the applicant. |
| <b><i>Neighborhood Meeting</i></b>                         |                                                                                                                                                |
| A neighborhood meeting was not required, nor was one held. |                                                                                                                                                |

| <b><i>Field Check</i></b> |                                                                                                                                                                                                |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 07/21/08                  | A routine field check was performed by staff. A well maintained, single-family home was observed. It was also noted that other homes in the area appeared to have reduced front yard setbacks. |

| <b><i>Details of Application Request</i></b> |      |
|----------------------------------------------|------|
| <b><i>Site Area</i></b>                      |      |
| Gross Acres                                  | 0.48 |

| <b>Surrounding Property</b> | <b>Existing Land Use</b> | <b>Planned Land Use</b>               | <b>Existing Zoning</b>  |
|-----------------------------|--------------------------|---------------------------------------|-------------------------|
| Subject Property            | Single-Family Residence  | DR (Desert Rural Density Residential) | R-E (Residence Estates) |
| North                       | Single-Family Residence  | DR (Desert Rural Density Residential) | R-E (Residence Estates) |
| 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-E (Residence Estates) |

| <b><i>Special Districts/Zones</i></b>             | <b><i>Yes</i></b> | <b><i>No</i></b> | <b><i>Compliance</i></b> |
|---------------------------------------------------|-------------------|------------------|--------------------------|
| <b>Special Area Plan</b>                          |                   | X                | N/A                      |
| <b><i>Special Districts/Zones</i></b>             | <b><i>Yes</i></b> | <b><i>No</i></b> | <b><i>Compliance</i></b> |
| <b>Special Purpose and Overlay Districts</b>      |                   | X                | N/A                      |
| <b>Trails</b>                                     |                   | X                | N/A                      |
| <b>Rural Preservation Overlay District</b>        | X                 |                  | Y                        |
| <b>Development Impact Notification Assessment</b> |                   | X                | N/A                      |
| <b>Project of Regional Significance</b>           |                   | 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.
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 has no impact on the intentions of the Rural Preservation Overlay District.

### **DEVELOPMENT STANDARDS**

| <b><i>Standard</i></b>          | <b><i>Required/Allowed</i></b> | <b><i>Provided</i></b> | <b><i>Compliance</i></b> |
|---------------------------------|--------------------------------|------------------------|--------------------------|
| Min. Lot Size                   | 20,000 sq. ft.                 | 21,001 sq. ft.         | Y                        |
| Min. Lot Width                  | 100 ft.                        | 127.32 ft.             | Y                        |
| Min. Setbacks                   |                                |                        |                          |
| • Front                         | 50 ft.                         | *10.6 ft.              | *N                       |
| • Side                          | 10 ft.                         | 10 ft.                 | Y                        |
| • Corner                        | 15 ft.                         | N/A                    | N/A                      |
| • Rear (to main dwelling)       | 35 ft.                         | 42.8 ft.               | Y                        |
| • Rear (to accessory structure) | 3 ft.                          | 19.5 ft.               | Y                        |
| Min. Distance Between Buildings | 6 ft.                          | 6 ft.                  | Y                        |

*\*The applicant has submitted this Variance request to allow a 10-foot front yard setback where 50 feet is the minimum required to accommodate a garage addition to the existing single-family residence.*

## **ANALYSIS**

This application is a request for a Variance to allow for a 10-foot front yard setback where 50 feet is required at 2061 Diamond Bar Drive. This Variance request has been made in order to accommodate the construction of a garage addition to the existing 4,183 square-foot single-family residence. The addition would be a 511 square-foot two-car garage with a 10.6-foot driveway, constructed to match the existing single-family residence. Currently, the single-family residence has a two-car garage. This addition would provide the applicant a four-car garage. The proposed 10-foot front yard setback demonstrates an 80 percent deviation from the required 50-foot front yard setback for a single-family residence within an R-E (Residence Estates) zoned district.

The City of Las Vegas Public Works Department requires a driveway to either be 5 feet or less, or 18 feet and greater in length in order to prevent vehicles from intruding onto public right-of-way. The proposed 10.6-foot driveway does not meet either standard and an additional condition has been added by Public Works to address this concern. The additional condition would not allow the parking of a vehicle within the proposed 10.6-foot driveway.

The site plan also depicts a bathroom addition to an existing rear yard casita. This addition is well within the rear yard set back requirements and is not part of this Variance request.

Due to the 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 two-car garage addition within the required front yard setback for a single-family residence in an R-E (Residence Estates) district. 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.

### **PLANNING COMMISSION ACTION**

There were three speakers in opposition at the Planning Commission Meeting. A written petition was also submitted.

### **NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 13

**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 160 by City Clerk

**APPROVALS** 4

**PROTESTS** 7