



AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 3, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-30268 - APPLICANT/OWNER: BRENT AND SUZANNE
BELL FAMILY TRUST

** CONDITIONS **

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. The final building approval must be applied for within (30) days.
2. This approval shall be void one year from the date of final approval, unless approval of a final inspection is obtained. 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 for a 1.5-foot side yard setback for an existing patio cover where ten feet is the minimum side yard setback allowed in an R-PD4 (Residential Planned Development 4 Units per Acre) zone at 2001 Eagle Trace Way. This represents an 85 percent deviation from the set development standard.

Due to the self imposed hardship created by the applicant by constructing a patio cover 1.5 feet from the side property line, staff is recommending denial of this application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
01/07/87	The City Council approved a request for the Reclassification of Property (Z-0097-86) located on the north side of Sahara Avenue between Durango Drive and Fort Apache Road from N-U (Non-Urban) under resolution of intent to R-PD4 (Residential Planned Development - 4 Units per Acre) and P-R (Professional Office and Parking) to R-PD4 (Residential Planned Development - 4 Units per Acre), R-PD18 (Residential Planned Development - 18 Units per Acre), and C-1 (Limited Commercial). The Planning Commission recommended approval.
04/15/87	The City Council approved a request for a Plot Plan Review (Z-0097-86) for single-family residential, townhouses, condominiums, apartments, a shopping center, and a golf course on property located on the north side of Sahara Avenue, between Durango Drive and Fort Apache Road. The Planning Commission recommended approval.
09/22/87	The City Council approved a request for a Review of Development Guidelines (Z-0097-86) to establish setbacks and architectural review process relating to the estate and custom lot areas on property located on the northwest corner of Sahara Avenue and Durango Drive. The Planning Commission recommended approval.
11/21/88	The Planning Commission approved (final action) a request for a Tentative Map for a portion of Foothills Country Club and a Plot Plan Review [Z-0097-86(1)] for single-family dwellings on property located north of Sahara Avenue, between Fort Apache Road and Durango Drive.
03/23/89	The Board of Zoning Adjustment approved (final action) a request for a Variance (V-0011-89) to allow a membership golf course, restaurant and cocktail lounge, retail store, and other related commercial uses where such commercial uses are not allowed.

07/18/90	The City Council approved a request for a Plot Plan Review (Z-0097-86) to delete required sidewalks within the Foothills Country Club No. 4 on property located east of Fort Apache Road and south of Peccole Strada. The Planning Commission recommended approval.
04/03/91	The City Council approved a request for Plot Plan and Building Elevation Review (Z-0097-86) of proposed single-family dwellings on property located on the south side of Robinson Ridge Drive, east of Fort Apache Road. The Planning Commission recommended approval.
10/16/91	The City Council denied an appeal of the denial action of the Planning Commission for a Waiver of City standards to allow a 24-foot wide private street where 32-foot wide private streets are required on property located north of Sahara Avenue, between Fort Apache Road and Durango Drive.
07/23/92	The Planning Commission approved (final action) a request for a Tentative Map (TM-0042-92) for Canyon Gate Country Club Emerald Hill Estates located north of Sahara Avenue, between Fort Apache Road and Durango Drive.
08/27/92	The Planning Commission approved (final action) a request for a Final Map (FM-0061-92) for Canyon Gate Country Club Emerald Hill Estates located north of Sahara Avenue, between Fort Apache Road and Durango Drive.
09/21/04	Code Enforcement (Case #21845) processed a complaint for stagnate water in the swimming pool at 2001 Eagle Trace Way. The case was resolved on 09/28/04.
02/22/05	Code Enforcement (Case #26212) processed a complaint that the resident had built a sports court with a net that is 18-inches from the side wall. They also built a concrete slab that interferes with the drainage of the property and water now drains into the neighbors yard causing damage to the wall at 2001 Eagle Trace Way. The case was resolved on 02/28/05.
02/24/05	Code Enforcement (Case #26383) processed a complaint for batting cages not meeting the required setback at 2001 Eagle Trace Way. The case was resolved on 05/26/05.
09/02/08	Code Enforcement (Case #69224) processed a complaint for a rear yard patio structure built in the required setback at 2001 Eagle Trace Way. The case was resolved on 09/25/08.
11/09/08	The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #18/ne).
<i>Related Building Permits/Business Licenses</i>	
11/01/95	A building permit (#95881049) was issued for a single-family dwelling at 2001 Eagle Trace Way. The permit was finalized on 06/17/96.
01/29/96	A building permit (#96001814) was issued for a masonry and retaining wall at 2001 Eagle Trace Way. The permit expired on 02/15/97.
03/27/96	A building permit (#96006076) was issued for a pool at 2001 Eagle Trace Way. The permit expired on 02/15/97.
05/10/07	

	A building permit (#89041) was issued to replace a water heater at 2001 Eagle Trace Way. The permit was finalized on 11/21/07.
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05/07/08	A building permit (#114633) was issued for a patio cover at 2001 Eagle Trace Way. The patio cover was not built to plan and failed the final building inspection.
07/08/08	A building permit (#119500) was issued to replace a water heater at 2001 Eagle Trace Way.

<i>Pre-Application Meeting</i>	
08/08/08	A pre-application meeting was held where the submittal requirements for a Variance were discussed.

<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

<i>Field Check</i>	
09/30/08	A routine field check was performed by staff. Staff was unable to observe to the rear yard patio cover. It was noted that the single-family residence was well maintained.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.41

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	L (Low Density Residential)	R-PD4 (Residential Planned Development 4 Units per Acre)
North	Single-Family Residence	L (Low Density Residential)	R-PD4 (Residential Planned Development 4 Units per Acre)
South	Single-Family Residence	L (Low Density Residential)	R-PD4 (Residential Planned Development 4 Units per Acre)
East	Single-Family Residence	L (Low Density Residential)	R-PD4 (Residential Planned Development 4 Units per Acre)
West	Golf Course & Single-Family Residence	PR-OS (Parks/Recreation/Open Space) & L (Low Density Residential)	R-PD4 (Residential Planned Development 4 Units per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan	X		Y
Canyon Gate	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
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

DEVELOPMENT STANDARDS

Development Standards were established by the Development Guidelines (Z-0097-86) approved by the City of Las Vegas City Council on 09/22/87.

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	18,742 SF.	18,742 SF.	Y
Min. Setbacks			
• Front	25 FT.	56 FT.	Y
• Side	10 FT.	1.5 FT. *	N*
• Corner	10 FT.	N/A	N/A
• Rear	25 FT.	34 FT.	Y

*The applicant is requesting a Variance to allow for their existing patio cover to be setback 1.5 feet where 10 feet is the minimum setback allowed for a side yard.

ANALYSIS

The applicant is requesting a Variance to allow for a 1.5-foot side yard setback for an existing patio cover where ten feet is the minimum side yard setback required in an R-PD4 (Residential Planned Development 4 Units per Acre) zone. This represents an 85 percent deviation from the standard.

The existing patio cover is 10 feet tall, 19 feet deep, and 23 feet in length. The patio cover was constructed of aluma-wood adjacent to the existing single-family home. The patio cover has four posts and a 23-foot by 19-foot lattice roof. The patio cover was constructed to provide shade for an existing built-in bar-be-que.

The applicant was issued a building permit for a patio cover by the Department of Building and Safety on 05/07/08. The site plan submitted with the building permit application demonstrated a patio cover to be constructed five feet from the rear property line and did not demonstrate the fact that this is an irregular lot within an R-PD4 (Residential Planned Development 4 Units per

Acre) zone which has specific development guidelines. The patio cover was not constructed per the approved plan within the side yard, 1.5 feet from the property line.

Per Title 19.08.040.B.4., *A patio cover may encroach to within five feet from the rear and side property lines in the R-D, R-1, R-CL, R-2, R-3, R-4, R-5, R-MH, and R-MHP zoning districts and may encroach to within fifteen feet from the rear and side property lines in the U, R-A and R-E zoning districts. In other residential districts, patio cover setbacks shall be compatible with the required setbacks for principal structures.* The subject site is within an R-PD4 (Residential Planned Development 4 Units per Acre) zoning district, thus requiring the patio cover to conform with the required ten-foot side yard setback established by the R-PD4 (Residential Planned Development 4 Units per Acre) zoning district.

Due to the self-imposed hardship created by the applicant by constructing a patio cover with a 1.5-foot side yard setback where the minimum allowed is ten feet, 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 constructing a patio cover within the required setbacks. Alternative patio design and construction 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

The Planning Commission added condition #1 as shown.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 609 by City Clerk

APPROVALS 8

PROTESTS 2