



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MARCH 26, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - WVR-32158 - APPLICANT: ROYAL

CONSTRUCTION - OWNER: SPINNAKER HOMES V LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the conditions for Rezoning (Z-0048-01) and Site Development Plan Review [Z-0048-01(1)], if approved, except as amended herein.
2. 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.
3. All development shall be in conformance with the landscape plan date stamped 02/26/09, except as amended by conditions herein.

WVR-32158 - Staff Report Page One
March 26, 2009 - Planning Commission Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Waiver of the Town Center Development Standards to allow a four-foot sidewalk without an amenity zone along a 40-foot and a 50-foot portion of Deer Springs Way where a five-foot sidewalk with a three-foot amenity zone is required on 0.21 acres adjacent to Deer Springs Way, approximately 400 feet east of Fort Apache Road. The applicant has submitted this request to allow for two segments of existing constructed sidewalk adjacent to Deer Springs Way to remain in their current configurations.

The first 50-foot sidewalk segment, which occurs approximately 150 feet east of Fort Apache Road, was constructed adjacent to Deer Springs Way without an amenity zone to allow for site drainage from the adjacent cul-de-sac to the north, Armistead Street. The second 40-foot sidewalk segment, approximately 400 feet east of Fort Apache Road, was constructed adjacent to Deer Springs Way with a sidewalk that narrows to four feet in width, to allow for an existing utility box and pad to remain in its current configuration.

The applicant has allowed for the utility box, pad and site drainage to be constructed in a manner which is not in conformance with the Town Center Development Standards Manual, the conditions of the approved Rezoning (Z-0048-01) or the conditions of the approved Site Development Plan Review [Z0048-01(1)], all of which were established at a time that preceded any development on the subject parcel. In addition, the applicant has already constructed the sidewalks which are not in conformance with the approved Civil Improvement Plans (#107y4711-4) dated 01/24/07. Staff finds the requested Waiver is not in conformance with the requirements of the Town Center Development Standards Manual, the approved Civil Improvement Plans (#107y4711-4), the approved Rezoning (Z-0048-01) or the approved Site Development Plan Review [Z0048-01(1)]; therefore, denial of this request is recommended.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
01/17/01	The City Council approved a Petition to Annex (A-0003-99) property generally located west of El Capitan Way and east of Hualapai Way between Grand Teton Drive and Rome Avenue, containing approximately 615 acres. The effective date of this Annexation was 01/26/01. The Planning Commission and staff recommended approval of this request.
09/05/01	The City Council approved a Rezoning (Z-0048-01) from U (Undeveloped) [ML-TC (Medium Low - Town Center) and L (Low Density Residential) General Plan Designation] to T-C (Town Center) on approximately 15 acres on the northeast corner of the intersection of Fort Apache Road and Deer Springs Way. The Planning Commission and staff recommended approval of this request.

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WVR-32158 - Staff Report Page Two
March 26, 2009 - Planning Commission Meeting

09/19/01	The City Council approved a Site Development Plan Review [Z0048-01(1)] for a proposed 83-lot Single-Family Residential subdivision on 15 acres on the east side of Fort Apache Road, between Deer Springs Way and Dorrell Lane. The Planning Commission and Staff recommended approval of this request.
09/19/01	The City Council accepted a Withdrawal Without Prejudice for a Variance (V-0060-01) to allow 44,866 square feet of open space where the Town Center Development Standards require 130,680 square feet on the east side of Fort Apache Road, between Deer Springs Way and Dorrell Lane. The Planning Commission and staff recommended approval of this request.
10/04/01	The Planning Commission approved a Variance (V-0067-01) to allow 30,056 square feet of open space where 133,294 square feet is the minimum amount required for an approximately 15.28-acre site, located adjacent to the northeast corner of Fort Apache Road and Deer Springs Way. Staff recommended approval of this request.
10/04/01	The Planning Commission approved a Tentative Map (TM-0039-01) for a 300-lot Single-Family Residential Subdivision on 45.95 acres located adjacent to the northeast corner of Fort Apache Road and Deer Springs Way. Staff recommended approval of this request.
08/05/04	Civil Improvement Plans (#107y4711-4) of the Spinnaker at Town Center Unit 4 Subdivision were submitted to the City of Las Vegas for review. These plans dictated the original civil design of the subject subdivision.
10/11/04	The Planning and Development Department approved a Final Map (FMP-3931) for an 89-lot for Single-Family Residential subdivision on 14.64 acres located adjacent to the southeast corner of Fort Apache Road and Dorrel Lane. The Final Map was recorded on 10/13/04.
01/05/05	The City Council approved a Variance (VAR-5484) to allow a 17-foot front yard setback where 18 feet is required for a proposed residential development on Lot 24 of the Spinnaker at Town Center 1 Unit 4 Subdivision located approximately at the southeast corner of Dorrell Lane and Fort Apache Road. The Planning Commission recommended approval of this request, whereas staff recommended denial.
03/26/06	Civil Improvement Plans (#107y4711-4 First Revision) of the Spinnaker at Town Center Unit 4 Subdivision were submitted to the City of Las Vegas for review. These plans revised the sight visibility zone and retaining walls for lot 73, adjacent to the northwest corner of Deer Springs Way and Tropicaire Street.
01/24/07	Civil Improvement Plans (#107y4711-4 Second Revision) of the Spinnaker at Town Center Unit 4 Subdivision were submitted to the City of Las Vegas for review. These plans were revised to reflect the location of a utility box, located on Deer Springs Way, approximately 400 feet east of Fort Apache Road.

WVR-32158 - Staff Report Page Three
March 26, 2009 - Planning Commission Meeting

02/12/09	The Planning Commission abeyed a request for a Waiver (WVR-32158) of the Town Center Development Standards to allow a four-foot sidewalk without an amenity zone along a 40-foot and a 50-foot portion of Deer Springs Way where a five-foot sidewalk with a three-foot amenity zone is required on 0.21 acres adjacent to Deer Springs Way, approximately 400 feet east of Fort Apache Road. The applicant requested this abeyance to allow for additional time to coordinate the design of the landscaping of the amenity zones in Deer Springs Way.
03/12/09	The Planning Commission abeyed a request for a Waiver (WVR-32158) of the Town Center Development Standards to allow a four-foot sidewalk without an amenity zone along a 40-foot and a 50-foot portion of Deer Springs Way where a five-foot sidewalk with a three-foot amenity zone is required on 0.21 acres adjacent to Deer Springs Way, approximately 400 feet east of Fort Apache Road. The Planning Commission requested this abeyance to allow the applicant to meet with Nevada Energy regarding the existing utility box on site.
<i>Related Building Permits/Business Licenses</i>	
12/27/04	A building permit (#32836) was issued for a perimeter block wall for s single-family subdivision at 9119 Dorrell Lane. The permit was failed upon inspection by the Planning and Development Department on 04/07/08 and is still open awaiting final approvals.
09/09/05	A building permit (#48728) was issued for interior subdivision walls at 9119 Dorrell Lane. The permit received an inspection on 10/12/07; however this was not a final inspection. The permit is still open awaiting final approvals.
<i>Pre-Application Meeting</i>	
10/21/08	A pre-application meeting was held with the applicant where the requirements for submitting a Waiver application to allow an attached sidewalk adjacent to Deer Springs Way.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held, not was one required.	

<i>Field Check</i>	
12/08/08	A field check was performed by staff at the subject property. Staff noted a large utility box and concrete pad located on the north side of Deer Springs Way. An existing concrete sidewalk has been constructed around the utility box, adjacent to Deer Springs Way, without the required amenity zone. To the west of the utility box a second portion of Deer Springs Way has been constructed with an attached sidewalk, adjacent to Armistead Street. The landscape surrounding the community was in average condition; however, a cut-down tree was noted adjacent to Deer Springs Way.

WVR-32158 - Staff Report Page Four
March 26, 2009 - Planning Commission Meeting

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.21

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	R.O.W.	R.O.W	R.O.W
North	Single-Family Residences	TC (Town Center)	T-C (Town Center) [ML-TC (Medium Low Residential Town Center) Special Land Use designation]
South	Single-Family Residences	TC (Town Center)	T-C (Town Center) [ML-TC (Medium Low Residential Town Center) Special Land Use designation]
East	Single-Family Residences	TC (Town Center)	T-C (Town Center) [ML-TC (Medium Low Residential Town Center) Special Land Use designation]
West	Single-Family Residences	TC (Town Center)	T-C (Town Center) [L-TC (Low Density Residential Town Center) Special Land Use designation]

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
T-C Town Center District	X		N*
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts		X	N/A
T-C Town Center District	X		N*
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 applicant has requested this Waiver of the Town Center Development Standards Manual to allow a four-foot sidewalk without an amenity zone along a 40-foot and a 50-foot portion of Deer Springs Way where a five-foot sidewalk with a three-foot amenity zone is required.

WVR-32158 - Staff Report Page Five
March 26, 2009 - Planning Commission Meeting

DEVELOPMENT STANDARDS

Per the Town Center Development Standards Manual, the following is required:

<i>Streetscape Standards</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
Town Center Arterial Deer Springs Way	Five-foot detached sidewalk with a three-foot amenity zone; Large canopy street trees 30 feet on center; Ground cover consisting of a minimum of one-third, five-gallon plant material to reach 75% coverage within three years	Four to five-foot attached sidewalk without an amenity zone; No trees or shrubs have been provided in areas without amenity zones	N

ANALYSIS

This is a request for a Waiver of the Town Center Development Standards to allow a four-foot sidewalk without an amenity zone along a 40-foot and a 50-foot portion of Deer Springs Way where a five-foot sidewalk with a three-foot amenity zone is required on 0.21 acres adjacent to Deer Springs Way, approximately 400 feet east of Fort Apache Road. The applicant has submitted this request to allow for two segments of existing constructed sidewalk adjacent to Deer Springs Way to remain in their current configurations.

The first 50-foot sidewalk segment, which occurs approximately 150 feet east of Fort Apache Road, was constructed adjacent to Deer Springs Way without an amenity zone to allow for site drainage from the adjacent cul-de-sac to the north, Armistead Street. The second 40-foot sidewalk segment, approximately 400 feet east of Fort Apache Road, was constructed adjacent to Deer Springs Way with a sidewalk that narrows to four feet in width, to allow for an existing utility box and pad to remain in its current configuration. This has created gaps in the required streetscape and landscape requirements, which break the patterns established by existing surrounding landscape.

The utility box and pad and the site drainageway were both originally not shown on the approved civil improvement plans (#107y4711-4) dated 08/04/04. The applicant did submit revisions to the City of Las Vegas dated 01/24/07 which detail a utility box and pad located on Deer Springs Way approximately 400 feet east of Fort Apache Road; however these revisions were never submitted to the Planning and Development for approval. Additionally, these revisions do not accurately reflect how the adjacent sidewalk interacts with the utility box and pad, nor do they represent how the sidewalk interacts with the site drainage adjacent to Armistead Street, as both are shown as five-foot wide sidewalks with a three-foot amenity zone adjacent to Deer Springs Way.

WVR-32158 - Staff Report Page Six
March 26, 2009 - Planning Commission Meeting

The applicant has submitted perimeter landscape plans which reflect conformance with the streetscape requirements of the Town Center Development Standards Manual, with the exception of the areas affected by this Waiver request. For these areas, the applicant has provided additional shrubbery within the amenity zones on the east and west sides of the utility pad, which consist of a 15-gallon Texas Olive shrub and five, five-gallon Texas Rangers shrubs, in order to better screen the utility box as required by Title 19.12.040(E). For the 50-foot portion of sidewalk without an amenity zone adjacent to Deer Springs Way and Armistead Street, the applicant has provided 11, five-gallon shrubs and one 15-gallon Mexican Grass Tree, placed within a three-foot wide planter located behind the sidewalk.

The applicant has allowed for the utility box, pad and site drainageway to be constructed in a manner which is not in conformance with the Town Center Development Standards Manual, the conditions of the approved Rezoning (Z-0048-01) or the conditions of the approved Site Development Plan Review [Z0048-01(1)], all of which were established at a time that preceded any development on the subject parcel. In addition, the applicant has already constructed the sidewalks which are not in conformance with the approved Civil Improvement Plans (#107y4711-4) dated 01/24/07. Staff finds the requested Waiver is not in conformance with the requirements of the Town Center Development Standards Manual, the approved Civil Improvement Plans (#107y4711-4), the approved Rezoning (Z-0048-01) or the approved Site Development Plan Review [Z0048-01(1)]; therefore, denial of this request is recommended.

FINDINGS

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship due to over-development of the subject site. Alternatively, relocating existing undeveloped lot lines 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

9

ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 436

WVR-32158 - Staff Report Page Seven
March 26, 2009 - Planning Commission Meeting

APPROVALS 3

PROTESTS 4