

**AGENDA MEMO****CITY COUNCIL MEETING DATE: APRIL 21, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: LORRAINE BRADY**

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to conditions:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the wall. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Department.

Public Works

3. If the entry gates proposed are to be electrically opened and closed, the gates may be placed immediately behind the street right-of-way line (i.e., on the private property side of where the sidewalk is located). If the entry gate is to manually opened and closed, the gates shall be set back a sufficient distance (a minimum of 18 feet) to allow a vehicle to pull completely out of the public street right-of-way before parking to manually operate the gate. The installation of either swing gates or rolling gates are acceptable as long as no part of the gates, either in the opened or closed position, intrude into the public right-of-way.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a proposed eight-foot wall/fence within the front yard where five feet is the maximum height allowed. The subject site contains an existing single-family residence located at 4112 Del Monte Avenue. The applicant is requesting the additional height to provide security and minimize vandalism at the subject site. Staff cannot support this request for a Variance, as the proposed fence does not meet Title 19.12.075 requirements and is not harmonious with the surrounding development. For these reasons, staff is recommending denial. If this request is denied, the existing five-foot wall/fence will remain as it is.

ISSUES

- The applicant is requesting to raise the existing wall/fence an additional three feet above the maximum height allowed by Title 19.12.075. No building permits have been issued for the existing wall/fence.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
09/14/09	Code Enforcement issued a citation notice (#81851) for the long term parking of commercial trailers with expired plates. The case was closed by Code Enforcement on 01/22/10.
01/06/10	A deed was recorded for a change of ownership.
03/25/10	The Planning Commission (7-0 vote) recommended APPROVAL (PC Agenda Item #17/ao).
<i>Related Building Permits/Business Licenses</i>	
c. 1976	The existing structure at 4112 Del Monte Avenue was constructed.
<i>Pre-Application Meeting</i>	
01/14/10	A pre-application meeting with the applicant was held where the elements of submitting a Variance were discussed. The topics included: • The applicant expressed the need for wanting to raise the wall/fence for security and privacy reasons; the wall is to be raised to 8feet (3feet above the maximum height allowed). • The applicant is a new tenant to the subject site and purchased the property on 11/26/09. • The existing fence was not permitted. • The applicant was informed that he would need a new site plan with the following: setbacks, dimensions, height of wrought iron, height of side walls, and a list of the materials that were to be used in the construction of the wall/fence, and also label any possible accessory structures and label streets). • Applicant has power of Attorney from his mother.

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<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	
<i>Field Check</i>	
02/18/10	Staff conducted a site visit and observed the following: • A well-maintained residence with an existing wall/fence within the front yard setback. • Currently, the wall/fence, especially the wrought iron section, appears structurally weak and rusty.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.50

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	R (Rural) Density Residential	R-E (Residence Estates)
North	Single-Family Residence	R (Rural) Density Residential	R-E (Residence Estates)
South	Single-Family Residence	R (Rural) Density Residential	R-E (Residence Estates)
East	Single-Family Residence	R (Rural) Density Residential	R-E (Residence Estates)
West	Single-Family Residence	R (Rural) Density Residential	R-E (Residence Estates)

<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 (200 feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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ANALYSIS

The subject site is presently being utilized for a single-family residence located at 4112 Del Monte Avenue. The applicant is requesting to construct an eight-foot tall wall/fence in the front yard of the site consisting of two-foot tall solid CMU segments with four-foot pilasters. A Variance is required to construct an eight-foot tall fence within the front yard setback where five feet is the maximum height allowed. The proposed wall will have a series of eight-foot tall by 12-inch deep by 16-inch wide brick pilasters located 18 feet on center. The new brick pilasters will match the existing pilasters. The fencing will be constructed of wrought iron, intended to match the existing wrought iron along the east and west side of the property. The wall/fence will be constructed for security purposes. The proposed wall/fence is aesthetically pleasing, as it will be designed to be similar in color to existing residence on the site.

The applicant has provided no evidence of unique or extraordinary circumstances pursuant to Title 19.18.070 that would substantiate the Variance request; therefore, staff is recommending denial.

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 19.18.070(L) 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 to increase the height of the existing front yard wall/fence. Alternative design of the wall/fence would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There was one speaker in favor of the application at the Planning Commission hearing. The applicant agreed to all conditions.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 26

NOTICES MAILED 139 (By City Clerk)

APPROVALS 11

PROTESTS 4