



## AGENDA MEMO

CITY COUNCIL MEETING DATE: SEPTEMBER 15, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: SANDRA LIPPINCOTT

***THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 18, 2010 CITY COUNCIL MEETING AT THE REQUEST OF APPLICANT***

### \*\* STAFF RECOMMENDATION(S) \*\*

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                                       | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|-------------------------------------------------------------|----------------------------------|
| VAR-37831              | Staff recommends DENIAL, if approved subject to conditions: |                                  |

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

## VAR-37831 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 proposed structure. 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 within 60 days of final approval.
3. These Conditions of Approval shall be affixed to the cover sheet of the plan set submitted for building permit.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Staff Report Page One**  
**September 15, 2010 – City Council Meeting**

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

**PROJECT DESCRIPTION**

This is a request for a Variance to allow an existing 316 square-foot Accessory Structure (Class II) with a zero-foot side yard setback where three feet is required at 6791 Sierra Trail. The accessory structure was built without a permit. As a result, a self-imposed hardship was created by building the Accessory Structure (Class II) that does not meet code requirements for building setback along the east property line. Therefore, staff recommends denial. If denied, the accessory structure will have to be relocated in order to meet the requirements of Title 19 standards prior to obtaining the necessary building permits.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i></b> |                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/28/86                                                                 | The City Council approved the request for Annexation (A-0009-85) of land containing approximately one thousand four hundred seventy acres, generally located south of Charleston Boulevard, between Torrey Pines Drive and Fort Apache Road. The Planning Commission and staff recommended approval of the request. |
| 08/31/09                                                                 | A Code Enforcement case (#81402) was processed for an outbuilding in violation of the side property line setback requirements. The building is zero feet from the property line. The case is currently open.                                                                                                        |
| 05/27/10                                                                 | The Planning Commission (7-0 vote) recommended APPROVAL (PC Agenda Item #31/rg).                                                                                                                                                                                                                                    |
| 07/07/10                                                                 | The City Council requested that this item be held in abeyance to the August 18, 2010 City Council meeting.                                                                                                                                                                                                          |

| <b><i>Most Recent Change of Ownership</i></b> |                                                |
|-----------------------------------------------|------------------------------------------------|
| 04/15/77                                      | A deed was recorded for a change in ownership. |

| <b><i>Related Building Permits/Business Licenses</i></b> |                                                                                                                    |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 09/20/76                                                 | A building permit (B76-7048) was issued by Clark County for a Single Family Residence at 6791 Sierra Trail.        |
| 01/08/96                                                 | A building permit (#96000488) was issued for a reroof at 6791 Sierra Trail. The project was completed on 02/05/96. |

**Staff Report Page Two**  
**September 15, 2010 – City Council Meeting**

| <b><i>Pre-Application Meeting</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/29/10                              | <p>A pre-application meeting was held with the applicant where elements of submitting for Variance for an Accessory Structure (Class II) to allow a zero-foot side yard setback were discussed. The topics included:</p> <ul style="list-style-type: none"> <li>• The submittal of application materials, meeting dates, and deadlines were discussed at the pre-application meeting.</li> <li>• A one hour fire rating wall and eaves are required when a structure is less than 5 feet from the property line, per the Building and Safety Department representative.</li> </ul> |

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

| Field Check |                                                                                         |
|-------------|-----------------------------------------------------------------------------------------|
| 04/22/10    | Staff conducted a site visit and noted a well maintained single family residential lot. |

| <b><i>Details of Application Request</i></b> |      |
|----------------------------------------------|------|
| <b><i>Site Area</i></b>                      |      |
| Net Acres                                    | 0.47 |

| <b><i>Surrounding Property</i></b> | <b><i>Existing Land Use Per Title 19.04</i></b> | <b><i>Planned or Special Land Use Designation</i></b> | <b><i>Existing Zoning District</i></b> |
|------------------------------------|-------------------------------------------------|-------------------------------------------------------|----------------------------------------|
| 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)                |

**Staff Report Page Three**  
**September 15, 2010 – City Council Meeting**

| <b><i>Master Plan Areas</i></b>                     | <b><i>Yes</i></b> | <b><i>No</i></b> | <b><i>Compliance</i></b> |
|-----------------------------------------------------|-------------------|------------------|--------------------------|
| <b>Master Plan Area</b>                             |                   | X                | N/A                      |
| <b><i>Special Purpose and Overlay Districts</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>Las Vegas Redevelopment Plan Area</b>            |                   | X                | N/A                      |
| <b>Development Impact Notification Assessment</b>   |                   | X                | N/A                      |
| <b>Project of Regional Significance</b>             |                   | X                | N/A                      |

## **DEVELOPMENT STANDARDS**

***Per Title 19.08.040, the following development standards apply:***

| <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 SF                      | 20,360 SF              | Y                        |
| Min. Lot Width                      | 100 Feet                       | 105 Feet               | Y                        |
| Min. Setbacks (Accessory Structure) |                                |                        |                          |
| • Front                             | Not Allowed                    | N/A                    | N/A                      |
| • Side (W)                          | 3 Feet                         | 93 Feet                | Y                        |
| • Side (E)                          | 3 Feet                         | 0 Feet                 | N                        |
| • Rear                              | 3 Feet                         | 16 Feet                | Y                        |
| Min. Distance Between Buildings     | 10 Feet                        | 58 Feet                | Y                        |

## **ANALYSIS**

The property is within the Rural Preservation Overlay District of the Title 19.06 Special Purpose and Overlay District. This site meets the requirement and existing accessory structure will not increase the density. Lot coverage does not apply in the R-E (Residence Estates) district.

The Accessory Structure (Class II) was constructed on the site without a building permit, and is the subject of an open Code Enforcement case (#81402). The accessory structure has a setback along the east property line of zero feet. Per Title 19.08.040 (B)(1)(d)(i): “Detached accessory structures (excluding patio covers) in the rear yard area must be located a minimum distance of three feet from the side and rear property lines.” The structure is fixed to the ground and cannot be moved without the reconstruction of the structure in order to meet setback requirements. Staff recommends denial of this request because no evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building the Accessory Structure (Class II) that does not meet code requirements for building setback along the east property line. Reconstruction of the Accessory Structure (Class II) at the proper setback would allow conformance to the Title 19 requirements.

**Staff Report Page Four**  
**September 15, 2010 – City Council Meeting**

**FINDINGS (VAR-37831)**

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.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building the Accessory Structure (Class II) that does not meet code requirements for building setback along the east property line. Reconstruction of the Accessory Structure (Class II) at the proper setback 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 neighbor in opposition at the Planning Commission hearing. A petition was submitted.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

6

**NOTICES MAILED**

109 (By City Clerk)

**APPROVALS**

5

**PROTESTS**

9