



City of Las Vegas

Agenda Item No.: 87.

AGENDA SUMMARY PAGE - PLANNING
CITY COUNCIL MEETING OF FEBRUARY 16, 2011

DEPARTMENT: PLANNING
DIRECTOR: FLINN FAGG, Acting

☐ Consent ☒ Discussion

SUBJECT: SDR-39810 - SITE DEVELOPMENT - LAND REVIEW - PUBLIC HEARING -
APPLICANT: OWNER, RANCHO ALTA MIRA HOMEOWNERS ASSOCIATION - Request
for a Major Amendment to previously approved Rezoning (Z-0108-88) and (Z-0037-93) TO
ALLOW 191 TREES IN THE PERMITSER LANDSCAPE BUFFER WHERE 418 TREES ARE
REQUIRED at the southwest corner of Bone Mountain Road and Decatur Boulevard (APNs
Multiple), R-PD5 (Residential Planned Development - 5 Units Per Acre) and R-PD7 (Residential
Planned Development - 7 Units Per Acre) Zone, Ward 6 (Ross). Staff recommends DENIAL. The
Planning Commission (5-2 vote) recommends APPROVAL.

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

32

City Council Meeting

44

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

51

City Council Meeting

64

RECOMMENDATION:

Staff recommends DENIAL. The Planning Commission (5-2 vote) recommends APPROVAL,
subject to conditions:

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letters
6. Protest Postcards/Letter and Support Postcards/Letter
7. Submitted at Meeting - DVD of Pictures of Trees along Jones Boulevard and Decatur
Boulevard by Elaine Harman and Concern Memorandum to Home Owners Association of
Rancho Alta Mira by Jon Zeisloft
8. Submitted after Meeting Recordation Notice of City Council Action and Conditions of
Approval
9. Backup referenced from the January 25, 2011 Planning Commission Meeting for SDR39810

Motion made by STEVEN D. ROSS to Approve subject to conditions and amending Condition 4
as follows:

4. An Exception from the Landscape, Wall and Buffer Standards is hereby approved, to allow
346 trees, 24-inch box trees, where 418 trees are required and to allow 1,097 existing shrubs
where 1,672 shrubs are required.

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 1

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RICKI Y. BARLOW, LOIS TARKANIAN, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-STEVE WOLFSON)

Minutes:

MAYOR GOODMAN declared the Public Hearing open.

ATTORNEY MICHAEL SCHULMAN, 3555 East Russell Road, representing the Alta Mira Homeowners Association, alleged that the Agenda Summary Page was incorrect, noting that the Planning Commission approved a compromise of 275 trees from the required 418, but the developer only installed the 191 trees currently on the site. The Association was created approximately 21 years ago and has requested to change some of the trees because of the damage being caused to the perimeter walls. It appears the residents were not exposed to the number of trees, but rather the type of trees being contemplated, based on representations made at the Planning Commission meeting.

ATTORNEY SCHULMAN stated that the cost of adding the difference in trees would be exorbitant.

ASSISTANT CITY ATTORNEY BRYAN SCOTT explained that the Agenda Summary Page is not incorrect, as it reflects the original requisition of 418 trees. ELIN FAGG, Acting Director of Planning, clarified that condition 4 states 275 trees.

ELAINE HARMAN opposed granting the variance, based on the Code indicating that a variance shall not be granted in order to relieve a self-created hardship or financial in nature. While the applicant has been non-compliant with the required number of trees for more than 21 years, there are also less than 191 trees on site for that timeframe because trees have fallen in storms or have been removed by the Association without permit, leaving a total of 121 trees to date. Replacing mature trees with eight-foot trees does not make any sense. She pointed out that having the contractor draft the justification letter for the Planning Commission is a conflict of interest. She submitted a DVD of pictures of the trees along the Jones Boulevard and Decatur Boulevard perimeters.

ASSISTANT CITY ATTORNEY SCOTT explained that the issue is not the removal of the trees, but rather the deficiency in the number of trees that should have been installed. MS. HARMAN stated the deficiency in trees for the each perimeter of the subdivision and requested the Council's due diligence and deny the variance request.

JIM ABBINETT, President of Rancho Alta Mira Homeowners Association, explained that the reason this matter is before the Council is because the Association found that there are numerous trees cracking the walls around the subdivision and should be removed.

BRIAN PATTERSON, Rancho Alta Mira Homeowners Association member, commented that the issue at hand is the number of trees. The Association intends to remove the existing 191 trees. As such, the Association should be required to install the required number of trees of 418.

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ATTORNEY SCHULMAN explained to MAYOR GOODMAN that this neighborhood issue was brought before the Council because when the trees were being inspected; someone at the Association reported that the required 418 trees were not installed, only 191.

CHRIS JARAMILLO, Jaramillo Landscape and Maintenance, 9275 South Jones Boulevard, appeared on behalf of Rancho Alta Mira Homeowners Association.

GEORGE WEST, recommended 227 trees be added to the 191 existing trees to bring the total up to 418 and in compliance. The Association received \$1.7 million in a settlement.

MR. JARAMILLO explained that repairing the walls will not suffice. Removal of the trees is necessary in order to prevent future wall damage. He showed a photo, which was not submitted, of a tree selection at Craig Road to demonstrate what the trees will look like in five years, noting that the existing 191 trees are in clusters of five to six trees, leaving large void spaces. The new trees will serve as a good buffer from the noise.

PATRICIA HARDTKE and SHERRY RUCCIO, residents of Rancho Alta Mira, expressed a preference for keeping the trees, stating that they are the trees that are not ruining the walls. Only the trees causing damage should be replaced.

COUNCILMAN ANTHONY verified with the Mayor that this item does not deal with removing or adding trees. The Council is only voting on the variance.

CAYMEN FLUTE, Jaramillo Landscape, supported the variance.

EVA WEST asked the Council to enforce the Code and require the installation of a total number of 418 trees, which she requested at the neighborhood meeting. She noted that there is a conflict of interest in having MR. JARAMILLO speak as the expert when he stands to benefit.

CJ and GAIL HOUSTON opposed the variance. MR. HOUSTON remarked that the Association's failure to communicate with the residents and making decisions without consulting the residents caused this problem. MIKE MANHOUSE countered that the issue has been discussed at every board meeting for the past two years; however, almost all of the residents in attendance at this meeting have failed to attend the board meetings. The issue has also been addressed in newsletters. Regarding MR. JARAMILLO's testimony being a conflict of interest, MR. MANHOUSE pointed out that MR. JARAMILLO would benefit more from planting 418 trees than the 275 trees being requested.

CHARLES and DOROTHY BUCKEY requested denial. MR. BUCKEY stated the mature trees are necessary to serve as a buffer and to help reduce traffic noise. He alleged that there were more than 191 trees when he moved into the neighborhood. However, some of them have been blown down in storms and never replaced. He was not convinced that the trees are causing wall damage. MRS. BUCKEY commented that this matter has never been addressed in any of the newsletters she read.

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JON ZEISLOFT, longtime resident of Rancho Alta Mira and retired geologist, indicated that he has not seen any evidence of wall damage that would justify the removal of trees. He submitted a statement, a copy of which is made a part of the minutes.

COUNCILMAN ANTHONY verified with MR. JARAMILLO that no matter the number of trees approved, all of the existing trees will be removed and replaced. The Councilman then asked why not just replant 418 trees, to which MR. JARAMILLO replied that it is a financial matter. MR. ABBINER rejoined that should the Council require the 418 trees, the board will have to regroup and make a decision based on the financial impact. However, the board is willing to plant 275 trees.

ANTHONY HOBBS commented that homeowners are getting hit with many costs, so they should be given consideration.

TODD FARLOW stated that the City has a commitment to the Arbor Day Foundation to protect the trees. He alleged that based on his experience with another subdivision on Decatur Boulevard and Desert Inn Road, the issue in this matter is that the wall is substandard and now they do not want to fix the wall or take out the mature trees.

MR. FARRER clarified for COUNCILMAN FARLOW that the matter does not technically involve a variance, but rather an amendment to a previously approved site plan, which is not in conformance with the required 418 trees. The matter before the Council is an amendment to a site plan, in order to install 275 trees instead of the required 418. If approved, the amended site plan would be approved with a lesser number of trees. The Councilman affirmed, by a show of hands, that the residents desire 418 trees.

COUNCILWOMAN TARKANIAN noted that the original approval was ignored and now it appears the Association wants to take down all of the trees and put in smaller trees. She agreed that the City has made tremendous efforts to maintain trees and could not support taking them down. She agreed that the walls were defective.

COUNCILMAN ANTHONY noted that if the Council denies the text amendment, the Association could still remove all the trees and plant 418 trees. MAYOR GOODMAN stated that that issue is between the residents and the Association. COUNCILMAN ANTHONY cautioned the residents that should their Association fees increase, they could not come back and complain to the Council.

MAYOR GOODMAN regarded this as an interesting, precedent-setting issue concerning a condition being placed without any statute of limitations and the impact that has. He wondered if it was the City's duty to ensure compliance. ASSISTANT CITY ATTORNEY SCOTT replied that the City has the duty to ensure condition compliance, but he was not sure the City had any way of knowing how many trees were actually planted in the beginning, given weather changes. COUNCILWOMAN TARKANIAN referred to some applications dealing with car agencies and believed a precedent has already been set.

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COUNCILMAN ROSS appreciated the residents love for the trees, but he did not feel the decision should be left to the Council. He urged the residents and the Association to maintain discussions and come to a solution. City staff should have caught the problem years ago. The condition of the walls is an internal issue.

MR. FAGG read Condition 4 for COUNCILMAN ROSS, which was the compromise staff worked out with the Association. He was made aware of this issue two years ago and wished that more residents would have attended the Planning Commission meeting. The Councilman suggested 346 trees be required as it would be a good compromise. Hereafter, the board can decide what it will do. MR. ABBINETT assured COUNCILMAN ROSS that the board will abide by the Council's decision.

ASSISTANT CITY ATTORNEY SCOTT suggested clarification on the size of the trees to be installed. COUNCILMAN ROSS felt that decision should lie with the residents and the board.

MAYOR GOODMAN declared the Public Hearing closed.

