



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: JUNE 1, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: CONAN AND JESSICA TURNER

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-40579	Staff recommends DENIAL, if approved subject to conditions:	N/A
SUP-40577	Staff recommends DENIAL, if approved subject to conditions:	VAR-40579

**** CONDITIONS ****

VAR-40579 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-40577) shall be required.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the Accessory Structures (Class I and Class II). An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Prior to occupancy, 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.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SUP-40577 CONDITIONS

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for an Accessory Structure (Class I) use.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-40579) shall be required.
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the Accessory Structure (Class I). An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Prior to occupancy, 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

These requests are for a Variance and Special Use Permit for a proposed 1,067 square-foot Accessory Structure (Class I) on a developed single family residential lot at 6308 Jennifer Court. The structure will be stucco, and painted to match the existing residence. Staff recommends denial of the Variance and the associated Special Use Permit requests, as no characteristics of the property prevent the Accessory Structure (Class I) from being designed to meet Title 19 standards. If the Variance request is denied, the associated Special Use Permit would also be denied and the property must remain as it is.

ISSUES

- An Accessory Structure (Class I) use is permitted in the R-E (Residence Estates) zoning district with the approval of a Special Use Permit.
- There is a companion request for a Variance to allow a maximum 3,467 square feet of combined floor area where 809 square feet is the maximum allowed, to allow an Accessory Structure (Class II) to not be aesthetically compatible (metal) with the principal dwelling unit (stucco) and to allow an Accessory Structure to exceed the height of the principal dwelling unit by six inches. Revised plans submitted February 24, 2011 depict the removal of the Accessory Structure (Class II). This results in a revised Variance request for a building area of 1,067 square feet for the Accessory Structure (Class I) where 809 square feet is allowed. Revised elevations indicate that the height of the structure will not exceed the height of the principal dwelling.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
03/21/73	The Board of City Commissioners approved a Rezoning (Z-0016-73) on this site from C-2 (General Commercial) to R-E (Residence Estates) as part of a larger request.
03/22/73	The Board of Zoning Adjustment approved a Variance (V-0012-73) to allow a 30-foot front yard building setback where 50 feet is required on 68 proposed lots on property located on the north side of Alexander Road, between Torrey Pines Drive and Tonopah Highway.
02/08/11	The Planning Commission voted (7-0) to recommend DENIAL on companion items VAR-40579 & SUP-40577 (PC Agenda Items 21-22/rg).

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<i>Most Recent Change of Ownership</i>	
05/26/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
c.1978	The Single Family Residence was constructed.

<i>Pre-Application Meeting</i>	
12/13/10	A pre-application meeting was held with the applicant, where elements of submitting a Variance and Special Use Permit for the proposed Accessory Structures (Class I and Class II) were discussed. The topics included: • A request for a Variance is necessary to allow the proposed accessory structures to exceed 50 percent floor area of the main dwelling unit. The exterior elevation of the proposed Accessory Structure (Class II) is not aesthetically compatible with the main dwelling unit. The proposed heights of both accessory structures are greater than the main dwelling unit. • Approval of a Special Use Permit to allow the Accessory Structure (Class I) is required.

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

<i>Field Check</i>	
01/13/11	A site visit by staff noted a well maintained Single Family Dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.45

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.04</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)

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East	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)

Master Plan Areas	Yes	No	Compliance
Master Plan Area		X	N/A
Special Purpose and Overlay Districts	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (140 feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to 19.08.040, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	20,000 SF	19,889 SF	N*
Min. Setbacks (Accessory Structure)			
• Front	Not allowed	N/A	N/A
• Side (North)	3 Feet	49 Feet	Y
• Side (South)	3 Feet	6 Feet	Y
• Rear	3 Feet	5 Feet	Y
Min. Distance Between Buildings	6 Feet	11 Feet	Y
Max. Lot Coverage	N/A	N/A	N/A
Max. Rear Yard Coverage	50 %	10 %	Y
Max. Floor Area (Accessory Structures)	809 SF	1,067 SF	N
Max. Building Height	Lesser of 2 stories, 35 feet or the height of the principal building.	15 feet	Y

*The subject site is legally non-conforming for the lot size.

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<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Jennifer Court	N/A	N/A	51	N/A

Pursuant to Title 19.04 and 19.10, the following parking standards apply:

<i>Parking Requirement</i>						
<i>Use</i>		<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
		<i>Parking Ratio</i>	Parking	Parking		
Single Family Residence	2 spaces per dwelling unit	2		2		Y
Accessory Structure (Class I)	One additional space must be provided beyond the number of spaces normally required	1		1		Y
TOTAL SPACES REQUIRED			3	3		Y

ANALYSIS

The applicant is requesting a Special Use Permit for a proposed 1,067 square-foot Accessory Structure (Class I) and a companion Variance request to allow Accessory Structures (Class I and Class II) in the property located at 6308 Jennifer Court. The Accessory Structure (Class II) has been removed from a revised site plan submitted February 24, 2011, and is no longer included in this request. The subject property is located within the Airport Overlay District with 140-foot height restriction and Rural Preservation Overlay District. The proposed development conforms to the Special Area Plans.

An Accessory Structure (Class I) use is defined by Title 19.20.020 as “an accessory structure which is located on the same residential parcel as a principal dwelling and which, as an ancillary use, provides living quarters, including full kitchen facilities, for the occupants of the principal dwelling or their tenants, domestic employees or temporary guests.” Unless the principal dwelling is owner-occupied, a Class I accessory structure may not be offered or occupied as a rental unit.

Approval of an associated Variance (VAR-40579) will be required, as the floor area of the proposed class I accessory structure exceeds fifty percent of the floor area of the principal dwelling. Pursuant to Title 19.08.040, the total area of all accessory structures shall not exceed fifty percent of the principal dwelling, which is 1,618 square feet. This would allow a building area for the accessory structure up to 809 square feet. With revised plans and elevations

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depicting the removal of the class II accessory structure, and the height and materials of the class I accessory structure shown in compliance with Title 19 requirements, the Variance applies to building floor area only. No characteristics of the property prevent the Accessory Structure (Class I) from being designed to meet Title 19 standards; therefore, staff recommends denial of the requests for a Variance and the associated Special Use Permit.

FINDINGS (VAR-40579)

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 proposing an Accessory Structure (Class I) that exceeds the building floor area allowed by Title 19.08, and results in an overbuilt property. Alternatives could include reducing the size of the proposed class I accessory structure, to 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.

FINDINGS (SUP-40577)

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

- 1. The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

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The proposed land use cannot be conducted in a manner that is harmonious and compatible with existing surrounding land uses as the proposed class I accessory structure exceeds Title 19 standard for floor area.

2.The subject site is physically suitable for the type and intensity of land use proposed.

The subject site is not physically suitable for the type and intensity of land use proposed, as is evidenced by the need for a Variance. The floor area of the proposed accessory structure exceeds fifty percent of the floor area of the principal dwelling unit constructed on the same lot, which is the maximum established by Title 19.08 for this use.

3.Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.

The site is accessed by Jennifer Court. The proposed use is not expected to have an effect on traffic in the area, and the right-of-way is adequate to accommodate it and the existing uses on the property.

4.Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.

Approval of the proposed Accessory Structure (Class I) use will not jeopardize the public health, safety or welfare, as they will be subject to permit review and inspection prior to completion.

5.The use meets all of the applicable conditions per Title 19.04.

The proposed Accessory Structure (Class I) use meets all applicable conditions of Title 19.04. The proposed accessory structure is not in compliance with the building area pursuant to Title 19.08.040.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

11

NOTICES MAILED

197 (By City Clerk)

APPROVALS

2

PROTESTS

10