

**AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: JULY 20, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: FATALEVICH FAMILY TRUST

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-41401	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-41401 CONDITIONS

Planning

- 1.This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.18. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 2.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 Department of Building and Safety.
- 3.These Conditions of Approval shall be affixed to the cover sheet of any 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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

A 1,167 square-foot Accessory Structure (Class II) is proposed in the side yard on the south side of the main dwelling. The subject property at 1900 Plantea Court contains an existing 6,303 square-foot dwelling. The proposed Class II accessory structure will have a two-foot distance separation from the main dwelling. Staff recommends denial, as the use does not comply with Title 19 requirements for an Accessory Structure (Class II) use. If this application is denied, the proposed Accessory Structure (Class II) will not be permitted on the property.

ISSUES

- A Variance is required to allow a two-foot distance separation between Accessory Structure (Class II) and the main dwelling.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
10/24/95	The Board of Zoning Adjustment approved a request for a Variance (V-0152-95) to allow the following: A) a single family dwelling with a front yard setback of 40.68 feet where 50 feet is the minimum setback required on property located at 1900 Lisa Dennis Court (now Plantea Court); B) a single family dwelling with a front yard setback of 45.35 feet where 50 feet is the minimum setback required on property located at 1804 Lisa Dennis Court (now Plantea Court) C) a single family dwelling with a rear yard setback of 20 feet where 43.45 feet is the minimum setback required on property located at 1801 Lisa Dennis Court (now Plantea Court). The Planning Department staff recommended was denial.
11/23/98	The City Council approved a request for a General Plan Amendment (GPA-0027-98) to Amend a portion of the Southwest Sector of the General Plan on properties bounded by Holmby Channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, from R (Rural Density Residential) to DR (Desert Rural Density Residential). The Planning Commission and staff recommended approval.
01/04/06	The City Council approved a request for a Special Use Permit (SUP-9859) for a proposed Guest House/Casita at 1900 Plantea Court. The Planning Commission recommended approval and the Department of Planning staff recommended denial. The entitlement had expired on 08/26/09.
06/14/11	The Planning Commission voted (7-0) to recommend APPROVAL (PC Agenda Item 36/rg).

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<i>Most Recent Change of Ownership</i>	
03/23/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
12/04/95	A building permit (#95389536) was issued for Single Family, Detached Residence at 1900 Lisa Dennis Court (now Plantea Court). The permit was finalized on 07/24/96.

<i>Pre-Application Meeting</i>	
03/10/11	A pre-application meeting was held with the applicant where the submittal requirements for a Variance for a proposed garage were discussed. The distance separation between the proposed Accessory Structure (Class II) and the main dwelling is 2 feet. The property currently has a three-foot easement parallel to the south property line and the building will require must be at three feet from the property line.

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

<i>Field Check</i>	
05/05/11	A site visit by staff noted that the property is well maintained.

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

<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)
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)

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<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
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 Title 19.08.040, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	20,405 SF	Y
Min. Lot Width	100 Feet	137 Feet	Y
Min. Setbacks (Accessory Structure)			
• Front	Not Allowed	N/A	N/A
• Side (South)	3 Feet	3 Feet	Y
• Rear	3 Feet	25 Feet	Y
Min. Distance Between Buildings	6 feet	2 feet	N
Max. Building Height	32.5 feet	18 feet	Y

<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>
Plantea Court	N/A	N/A	40	N/A

ANALYSIS

An Accessory Structure (Class II) use is defined by Title 19.20.020 as “an accessory structure which is located on the same lot as a principal structure, is detached therefrom, is incidental or subordinate thereto, and does not qualify as an “Accessory Structure (Class I).” The applicant is proposing a 1,167 square-foot detached Class II accessory structure that will be utilized as a recreation vehicle garage and will be accessed with an existing driveway from Plantea Court. The property contains an existing 6,303 square-foot Single Family Dwelling and is located within the Rural Preservation Overlay District. The proposed development conforms to the requirements of the district.

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The request for a Variance is required, as the proposed Accessory Structure (Class II) does not meet the minimum distance separation from the main dwelling. The distance separation is two feet between the Class II accessory structure and the main dwelling. Pursuant to Title 19.08.040, detached accessory structures must be separated a minimum distance of six feet from the main dwelling. No characteristics of the property prevent the Accessory Structure (Class II) from being designed to meet Title 19 standards; therefore, staff recommends denial of the request for a Variance. If this request is approved, it is subject to conditions.

FINDINGS (VAR-41401)

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 II) that is too wide within an area of the property that is too narrow for the proposed structure. Reduction in the width or relocation of the Accessory Structure (Class II) 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.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 14

NOTICES MAILED 159 (By City Clerk)

APPROVALS 0

PROTESTS 3