

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: NOVEMBER 5, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: VAR-36109 - APPLICANT/OWNER: CECIL FREDI**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

Public Works

2. The proposed driveway accessing the accessory structure shall meet City of Las Vegas Standards for the number of driveways allowed and dimensions.
3. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed use of this facility. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a proposed Accessory Structure (Class II) to be built to exceed 50 percent of the square footage for a proposed single-family residence. The site, located at 5410 Mello Avenue, is currently undeveloped and there are no structures on the site. The applicant is proposing an accessory structure with a total square footage of 6,480 where 3,882 square feet is the maximum allowed for all accessory structures in the rear yard.

The proposed use cannot be conducted in a harmonious manner because it does not meet Title 19 requirements for an Accessory Structure, and will have a negative visual impact on adjacent on adjacent residential properties. Therefore, staff recommends denial of the request. Denial of the request would require that the applicant redesign the accessory structure to comply with the requirements of Title 19.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
08/31/05	A deed was recorded for change of ownership.
04/05/07	A Code Enforcement case (#51976) was processed for someone living inside trailer at 5410 Mello Avenue. The case was closed by Code Enforcement on 04/13/07.
<i>Related Building Permits/Business Licenses</i>	
08/28/09	A building permit (#146534) is pending for a Single-Family Dwelling at 5410 Mello Avenue. The permit has not been issued.
08/28/09	A building permit (#146535) is pending for a detached garage at 5410 Mello Avenue. The permit has not been issued.
08/28/09	A building permit (#35803) is pending for a Single-Family Dwelling and detached garage at 5410 Mello Avenue. The permit has not been issued.
<i>Pre-Application Meeting</i>	
09/04/09	A pre-application meeting with the applicant was held where the elements of submitting a Variance were discussed. The topics included: • The height requirements for a detached accessory structure shall not exceed two stories or the height of the main dwelling. • The square footage of all accessory structures may not exceed 50% of the floor area of the principal dwelling. • The type of materials used in the accessory structure construction should be aesthetically compatible with the principal dwelling unit. • The setback requirements for the side, rear, and distance requirements from the principal dwelling.

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<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	
<i>Field Check</i>	
10/01/09	Staff performed a routine field check where a vacant lot was observed.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	1.18

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

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan	X		Y
Centennial Hills Sector Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts	X		Y
Trails	X		Y
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks • Side • Side • Rear • From Main Dwelling	3 Feet 3 Feet 3 Feet 6 Feet	10 Feet 48 Feet 92 Feet 11 Feet	Y
Size and Coverage	3,882 Square Feet	6,480 Square Feet	Y
Max. Accessory Height	26 Feet	18 Feet	Y

AO

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ANALYSIS

This is a request for a Variance to allow a proposed Accessory Structure (Class II) to be built to exceed 50 percent of the square footage for a proposed single-family residence located at 5410 Mello Avenue. The applicant is proposing an Accessory Structure with a total area of 6,480 square feet where 3,882 square feet is the maximum area allowed for all accessory structures in the rear yard. Currently, the lot is undeveloped, and there are no structures on the site.

The proposed Accessory Structure (Class II) is to be used for storage, and is to be located in the southern area of the subject site adjacent to other Residence Estates zoned properties. Research of the 1,000-foot radius notification area revealed no other Variances which were approved for an accessory structure that exceeded 50 percent of the floor area of the main dwelling.

The proposed Accessory Structure is 6,480 square feet. Title 19.08 states, The total floor area of all accessory structures shall not exceed fifty percent of the floor area of the principal dwelling unit constructed on the same lot. The principal dwelling on the subject site is proposed to be 7,763 square feet, allowing for a total of 3,882 square feet for an accessory structure. Thus, the proposed accessory structure exceeds this standard by 2,598 square feet, a 67 percent deviation from the Title 19 requirement. The applicant has self-created and imposed a hardship by proposing an accessory structure that exceeds the allowable square-footage by 2,598 square feet.

Although the applicant's proposed accessory structure does not meet the Title 19 requirement, it does comply with the height and setback requirements, and will be aesthetically compatible with the principle dwelling, as required by Title 19. There is no deficiency in the property that necessitates constructing an accessory structure that will exceed Title 19.08 requirements; therefore, staff cannot support this application and is recommending denial of this Variance request. If denied, the proposed Accessory Structure cannot be built and would have to be redesigned to meet Title 19 requirements.

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.

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Additionally, Title 19.18.070L 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 that does not comply with the requirements of Title 19. An alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 125

APPROVALS 0

PROTESTS 1