

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: APRIL 22, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: BERTRAM R. SHORT AND CATHY G. SHORT**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-37592	Staff recommends DENIAL, if approved subject to conditions:	
SUP-37593	Staff recommends DENIAL, if approved subject to conditions:	VAR-37592



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PLANNING COMMISSION MEETING DATE: APRIL 22, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: BERTRAM R. SHORT AND CATHY G. SHORT

**** CONDITIONS ****

VAR-37592 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-37593) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. 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. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SUP-37593 CONDITIONS

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Accessory Structure (Class I) use.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-37592) 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.

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4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

5. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.
6. Coordinate with the Southern Nevada Health District to determine if the existing septic system permit will accommodate the additional square footage of the proposed accessory building; if not coordinate with the City of Las Vegas Collection Systems Planning Section of the Department of Public Works regarding connection to the City of Las Vegas sewer system prior to the issuance of any permits.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a proposed 1,560 square-foot Accessory Structure (Class I) and a Variance to allow a maximum of 2,136 square feet of combined floor area where 712 square feet is the maximum allowed on a developed single-family residential lot at 6241 Whispering Sands Drive. The lot consists of an existing 1,424 square-foot footprint area of the primary dwelling and a permitted 576 square-foot Accessory Structure (Class II) totaling 2,000 square feet of building area coverage. Staff recommends denial of the Variance (VAR-37592) and Special Use Permit. If the variance request is denied, the associated Special Use Permit (SUP-37593) must also be denied and the property must remain as it is.

ISSUES

- The combined area of the existing accessory structure and proposed accessory structure is 2,136 square feet, which exceeds the 712 square feet allowed by Title 19.08.040. Approval of an associated Variance (VAR-37592) to allow a proposed 1,560 square-foot Accessory Structure (Class I) and an existing 576 square-foot Accessory Structure (Class II), where 712 square feet is the maximum allowed is required to approve this request.
- The combined area of the two structures is 2,136 square feet, which is a 139% increase in square-footage above what is permitted by code.
- Approval of the variance request is required to approve an associated request for a Special Use Permit (SUP-37593) for a 1,560 square-foot Accessory Structure (Class I).

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
No recent zoning actions were found for this property.	

<i>Most Recent Change of Ownership</i>	
06/15/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
05/16/90	A building permit (#90068402) for a Single Family Residential dwelling was issued at 6241 Whispering Sands Drive. The project was completed on 11/02/90
07/18/97	A building permit (#97014664) for a Detached Shed was issued at 6241 Whispering Sands Drive. The project was completed on 11/24/97.

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<i>Pre-Application Meeting</i>	
02/10/10	A pre-application meeting was held with the applicant where elements of submitting for Special Use Permit for an Accessory Structure (Class I) and a Variance for multiple accessory structures to exceed fifty-percent of the size of the principal dwelling were discussed. The Topics included: • The submittal of application materials, meeting dates, and deadlines were discussed at the pre-application meeting. • Variance application is required part of the SUP submittal for Accessory Structure (Class I) due to the existing and proposed accessory structures footprint area exceeds that of the primary dwelling footprint area. • A Project of Regional Significance form was required upon submittal.

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

Field Check	
03/18/10	Staff conducted a site visit and noted a well maintained single family residential lot.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.59

<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 Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single Family Residence	RNP (Rural Neighborhood Preservation) – Clark County	R-E (Rural Estates Residential) – Clark County
South	Single Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Single Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single Family Residence	RNP (Rural Neighborhood Preservation) – Clark County	R-E (Rural Estates Residential) – Clark County

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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		Y

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

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	24,935 SF	Y
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks (Accessory Structures)			
• Front	Not Allowed	N/A	N/A
• Side (W)	3 Feet	15 Feet	Y
• Side (E)	3 Feet	38 Feet	Y
• Rear	3 Feet	42 Feet	Y
Min. Distance Between Buildings	6 Feet	15 Feet	Y
Max. Lot Coverage	N/A	N/A	N/A
Max. Building Height	Lesser of 2 stories, 35 feet or the height of the principal building	14 Feet	Y
Max. Floor area (Accessory Structures)	712 SF	2,136 SF	N

ANALYSIS

The applicant is requesting a Special Use Permit for a proposed 1,560 square-foot Accessory Structure (Class I) and a Variance to allow a total of 2,136 square feet of combined floor area where 712 square feet is the maximum allowed within a residential property located at 6241 Whispering Sands Drive.

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

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rental unit. The proposed accessory structure is compatible with the DR (Desert Rural Density Residential) General Plan Designation and is located within an existing R-E (Residence Estates) subdivision. The proposed structure is set back sufficiently from the neighboring properties and it is a single story structure.

Approval of an associated Variance (VAR-37592) will be required, as the combined floor area of the existing and proposed accessory structures exceeds 50 percent of the floor area of the principal dwelling. Per Title 19.08.040, the total area of all accessory structure shall not exceed fifty percent of the principal dwelling, which is 1,424 square feet. This would allow a combined building area for accessory structures up to 712 square feet. The combined area of the two structures is 2,136 square feet, which is a 139% increase in square-footage above what is permitted by code; therefore, staff recommends denial of the request for a Variance and the associated Special Use Permit.

FINDINGS (VAR-37592)

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 a new Accessory Structure (Class I) that will exceed code requirements for floor area. Removal of the existing Accessory Structure (Class II) and design of a smaller Accessory Structure (Class I) 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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FINDINGS (SUP-37593)

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.

The proposed Accessory Structure (Class I) is compatible with the DR (Desert Rural Density Residential) General Plan designation and is located within an existing R-E (Residence Estates) subdivision. The proposed structure is set back sufficiently from neighboring properties and it is a single story. Therefore, the proposed land use can be conducted in a manner that is harmonious and compatible with the existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.

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. The total of all accessory structures exceeds fifty percent of the floor area of the principal dwelling unit constructed on the same lot, which is the maximum established by code 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 Jones Boulevard, a 100-foot Primary Arterial and Whispering Sands Drive, a 60-foot local street. The proposed use is not expected to have an effect on traffic in the area, and therefore this right-of-way will be 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 it 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 the condition of Title 19.04. However, it fails to meet Title 19.08.040.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 13

NOTICES MAILED 120

APPROVALS 2

PROTESTS 0