



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: SEPTEMBER 23, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: ROXANNE SHERIDAN

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-39068	Staff recommends DENIAL, if approved subject to conditions:	
SUP-39069	Staff recommends DENIAL, if approved subject to conditions:	VAR-39068

** CONDITIONS **

VAR-39068 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-39069) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a final inspection has been approved. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Prior to occupancy, all necessary building permits for all structures on the site 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-39069 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-39068) shall be required.
3. This approval shall be void two years from the date of final approval, unless a final inspection has been approved. 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. One additional parking space for a total of three spaces shall be provided on site in conformance with the provisions of 19.04 and 19.10.
6. Pursuant to Title 18.12.250(C)(1), approval of a second driveway location to Via Olivero shall be obtained from the Director of Public Works within 30 days of final approval.
7. All necessary building permits shall be obtained for all existing accessory structures within 60 days of final approval or the structures shall be removed.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

10. Prior to the issuance of any building permits, abandon the existing septic tank system per Southern Nevada Health District regulations and connect to the public sewer line in Via Olivero Avenue. Alternatively, provide a letter from the Southern Nevada Health District stating that the existing septic tank is acceptable.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for an existing 1,088 square-foot Accessory Structure (Class I) on a developed single-family residential lot at 2281 South Pioneer Way. The lot contains an existing 3,840 square-foot residence and an unpermitted accessory structure totaling 1,088 square feet of building area. Staff recommends denial, as the use does not comply with Title 19 requirements for an Accessory Structure (Class I) use. The structure was built without building permits and with a zero side yard setback. If these applications are denied, the Accessory Structure (Class I) will need to be removed from the property.

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.
- Approval of an associated Variance (VAR-39068) is required prior to approval of a Special Use Permit, to allow a zero-foot side yard setback where three feet is required.
- A second accessory structure is also present on the subject site, but was not included in this review. Building permits are required for all structures on site, as conditioned.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
03/19/86	The City Council approved an Annexation (A-0009-85) of 1,470 acres, including the subject parcel. The Annexation became final on 03/28/86.
11/23/98	The City Council approved a request to amend a portion of the Southwest Sector of the General Plan on properties bounded by the Holmby Avenue Drainage Alignment, Via Olivero Avenue, Rainbow Boulevard and Durango Drive, From: R (Rural Density Residential) To: DR (Desert Rural Density Residential).
08/09/03	A code enforcement case (2262) was processed for a propane tank without permits. The case was resolved on 08/14/03.
11/03/04	A code enforcement case (23553) was processed for a using a residential property having parties and banquets that are catered and/or weddings with valet. The case was resolved on 11/30/04.
05/10/07	A code enforcement case (23553) was processed for a using a residential property having parties and banquets that are catered and/or weddings with valet. The case was resolved on 05/16/07.

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12/03/09	A code enforcement case (84553) was processed for a using a residential property having parties and banquets that are catered and/or weddings with valet. Several apartments/guest houses were built on the property which they apparently are renting out. The case is still open.
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<i>Most Recent Change of Ownership</i>	
03/29/96	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
C.1986	The single family residence was constructed.

<i>Pre-Application Meeting</i>	
03/26/10	A pre-application meeting was held with the applicant where the submittal requirements for a Special Use Permit were discussed. Topics included: • A Variance will be required for a zero-foot side yard setback.

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

<i>Field Check</i>	
08/19/10	Staff conducted a field check and noted a well maintained Single Family Residence, with multiple unpermitted accessory structures.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.56

<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	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Undeveloped	O (Office)	U (Undeveloped)

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East	Single Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single Family Residence	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		X	N/A
Trails		X	N/A
Rural Preservation Overlay District	X		N
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	23,948 SF	Y
Min. Lot Width	100 Feet	159 Feet	Y
Min. Setbacks (Accessory Structure)			
• Front	Not Allowed	N/A	N/A
• Side	3 Feet	0 Feet	N
• Corner	N/A	N/A	N/A
• Rear	3 Feet	8 Feet	Y
Min. Distance Between Buildings	6 Feet	17 Feet	Y
Max. Building Height	Lesser of 2 stories, 35 feet or the height of the principal building	10 Feet	Y
Max. Floor Area (Accessory Structures)	1,920 SF	1,088 SF	Y

Functional Classification of Street(s)	Governing Document	Street Width (Feet)	Compliance with Street Section
Private Street via Pioneer Way	N/A	40-foot	Y
Via Olivero Avenue a local street	N/A	60 feet	Y

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

Parking Requirement						
Use		Required		Provided		Compliance
		Parking Ratio	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		0		N
TOTAL SPACES REQUIRED		3		2		N

ANALYSIS

This is a request for a Special Use Permit for an existing unpermitted 1,088 square-foot, single story Accessory Structure, (Class I) on a developed single-family residential lot at 2281 South Pioneer Way. 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.” If the principal dwelling is owner-occupied, a Class I accessory structure may be offered or occupied as a rental unit. The subject property is located in the Rural Preservation Overlay District and fails to meet Objective # 3, which is to provide adequate buffer areas, as is evidenced by the requested Variance. Located at the southwest corner of the site is a gate that allows access to Via Olivera. Pursuant to Title 18.12.250(C)(1), no more than a single entrance or circular driveway shall be provided for any single-family residential lot, unless approved by the Director of Public Works. The submitted site plan does not indicate the location of an additional space that is required for an Accessory Structure (Class I), pursuant to Title 19.04. Conditions of Approval have been added to address these issues.

Approval of an associated Variance (VAR-39068) is required as the existing Accessory Structure, (Class I) was constructed with a zero-foot side yard setback. Since the hardship is a self-created, staff recommends denial of the Variance and consequently staff recommends denial of this Special Use Permit request.

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FINDINGS (VAR-39068)

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 constructing the Accessory Structure, (Class I) contrary to Title 19 requirements without obtaining building permits. Removal of the existing Accessory Structure, (Class I) and reconstruction with building permits and inspections 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.

FINDINGS (SUP-39069)

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 use is incompatible with the DR (Desert Rural Density Residential) General Plan designation and is located within an existing R-E (Residence Estates) subdivision and is incompatible due to the required buffer areas are not provided from neighboring properties. Therefore, the use cannot be conducted in a manner that is harmonious and compatible with the surrounding residential uses as the requested Variance indicates.

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

The subject site is physically suitable for the type and intensity of the existing Accessory Structure (Class I) use. However, the location of the structure on the lot does not conform to Title 19.08 Development standards.

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 main access to the site is from a private street off of Pioneer Way. The site also has a secondary access entry from Via Olivero Way. No more than a single entrance or circular driveway shall be provided for any single-family or duplex residential lot. Except as otherwise permitted by this Chapter or by City standards, or as otherwise approved by the Director of Public Works

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.

If approved, the proposed use on this site will be subject to periodic inspection by regulatory agencies for business licensing and environmental health, and it will therefore not compromise the public health, safety and welfare, or the overall objectives of the General Plan.

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

As conditioned, the proposed use meets all applicable conditions of Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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NOTICES MAILED

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APPROVALS

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PROTESTS

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