

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: NOVEMBER 18, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: CHARLES HOPPER

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-39816	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-39816 CONDITIONS

Planning and Development

- 1.This approval shall be void two years from the date of final approval, unless a building permit has been issued for new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 2.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. The carport structure shall be fire resistance rated to comply with all requirements of the Building and Safety Department.
- 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

This is a request for a Variance to allow a one-foot, six inch side yard setback for a proposed 19-foot by 32-foot two-car carport at 305 Rosemary Lane. A ranch style single family dwelling currently exists on site and the carport is proposed to be attached to the south side of the dwelling. Staff recommends denial, as no characteristic of the property prevents the carport from being designed to meet Title 19 standards. If this request is denied, the carport will not be permitted to be built within the required setback.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
06/19/02	The City Council approved a request a General Plan Amendment (GPA-0047-01) to amend portions of the Southeast Sector map of the General Plan in the general vicinity of the Charleston Boulevard/Rancho Drive intersection from SC (Service Commercial) to O (Office); from R (Rural Density Residential) to DR (Desert Rural Density Residential); from O (Office) to DR (Desert Rural Density Residential) and from L (Low Density Residential) to DR (Desert Rural Density Residential) in accordance with the recommendations of the Rancho Charleston Land Use Study and Strategic Plan. The Planning Commission recommended denial and staff recommended approval.

<i>Most Recent Change of Ownership</i>	
06/15/10	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
05/10/63	A building permit (#17908) was issued for a Single Family Residence at 305 Rosemary Lane. The project was completed on 11/07/63.
10/15/63	A building permit (#21962) was issued for a Swimming Pool at 305 Rosemary Lane. The project was completed on 12/30/63.
05/07/74	A building permit (#16534) was issued for a Garage Conversion for living space at 305 Rosemary Lane. The project was completed on 11/21/74.
04/27/79	A building permit (#3495) was issued for a Brick Veneer at 305 Rosemary Lane. The project was completed on 06/01/79.

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<i>Pre-Application Meeting</i>	
09/21/10	A pre-application meeting was held with the applicant, where elements of submitting a Variance for the side yard setback for a proposed carport were discussed. The topics included: • The materials to be used for the carport must be fire rated with a setback less than five feet from property line. • If enclosure of the proposed carport is planned in the future, another Variance is required due to requirements of the dwelling side yard setback. • The setback requirement for the proposed carport is the same as the patio cover standards of Title 19.08, which is 15 feet from the rear and side property lines in the R-E (Residence Estates) zoning districts.

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

Field Check	
10/15/10	A site visit by staff noted a well maintained Single Family Dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.54

<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	Single Family Residence	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Undeveloped	DR (Desert Rural Density Residential)	R-A (Ranch Acres)
West	Single Family Residence	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			
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 Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Carport			
Min. Setbacks			
• Front	50 Feet	50 Feet	Y
• Side	15 Feet	1.5 Feet	N
• Rear	15 Feet	74 Feet	Y

<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Private Street - Rosemary Lane	N/A	50	N/A

ANALYSIS

The subject property is located within the Airport Overlay District with a 140-foot height restriction and the height of the proposed carport is measured to the mid-point of a gabled roof at 11 feet, with the roof line even with the existing dwelling; therefore, the proposed height will not exceed the allowed height. The property is located within the RPOD (Rural Preservation Overlay District). The intent of the RPOD is to ensure that the rural character of each rural preservation neighborhood is preserved.

The proposed 19-foot by 32-foot two-car carport will be attached on the south side of the existing single family dwelling. The carport is classified as a Patio Cover per Title 19.08, and may encroach within 15 feet from the rear and side property lines in the R-E (Residence Estates) zoning district. The setback shall be measured from the supporting post; however, the overhang of the patio cover may not extend closer than three feet from a property line. The proposed

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carport supporting post is within three and a half feet from the property line and the overhang is one and a half feet from the property line. The proposed carport is therefore not in compliance with the requirements of Title 19.08. The submitted elevation did not specify whether the carport structure has the fire resistance rating as required by the Building and Safety Department for a structure that is less than five feet from the property line. Therefore, a condition of approval has been added that the carport structure shall be fire resistance rated to comply with all requirements of the Building and Safety Department. If this request is approved, building permits for the proposed carport must be obtained from the Building and Safety Department.

As there is no hardship associated with the physical characteristics of the site, failure to meet code requirements with regard to the proposed carport is self-imposed and staff cannot recommend approval.

FINDINGS (VAR-39816)

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 carport that has an eave that is within one-foot, six inches from the property line. The site plan indicates a new Porte Cochere to be located within the front yard attached onto the existing dwelling, and this is a viable alternative that 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 21

NOTICES MAILED 153

APPROVALS 0

PROTESTS 1