

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: DECEMBER 16, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: ROY WINBLAD**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-40127	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-40127 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.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.
- 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 proposed 15-foot high, 3,000 square-foot Accessory Structure (Class II) where a 12-foot high, 800 square-foot Accessory Structure (Class II) is permitted on a developed single-family residential lot at 5705 Paseo Montana Court. The lot contains an existing 1,600 square-foot residence. Staff recommends denial, as no characteristics of the property prevent the Accessory Structure (Class II) from being designed to meet Title 19 standards. If this application is denied, the Accessory Structure (Class II) will have to be designed to conform to Title 19 requirements.

ISSUES

- This Variance application consists of three requests: to exceed the allowable square footage by 2,200 square feet; to use a building material (metal) that is not compatible with the primary structure (stucco); and to permit the accessory structure to stand three feet higher than the primary structure.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
02/04/76	The Board of City Commissioners approved an Annexation (A-0001-75) for property located Michael Way and Jones Boulevard extending north from Peak Drive approximately 320 feet. The Annexation became effective 02/09/76.
01/04/78	The Board of City Commissioners approved a revised Tentative Map for Charleston Heights Tract # 53A-D. The Planning Commission recommended approval.
09/07/83	A Final Map was recorded for Charleston Heights Tract # 53-D.

<i>Most Recent Change of Ownership</i>	
05/28/10	A deed was recorded for a change in ownership.

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<i>Related Building Permits/Business Licenses</i>	
C.1987	The single family residence was constructed.
08/01/00	A building permit (00014349) was issued for a patio cover at 5705 Paseo Montana Court. The permit was finalized on 09/14/00.
09/20/05	A building permit (51023) was issued for a water heater at 5705 Paseo Montana Court. The permit was never finalized.

<i>Pre-Application Meeting</i>	
10/05/10	A pre-application meeting was held with the applicant where the submittal requirements for a Variance were discussed.

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

<i>Field Check</i>	
11/09/10	During a site visit staff noted a single family residence that was clean of trash and debris.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.41

<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	R (Rural Density Residential)	R-PD2 (Residential Planned Development-2 Units per Acre)
North	Single Family Residence	R (Rural Density Residential)	R-PD2 (Residential Planned Development-2 Units per Acre)
South	Single Family Residence	R (Rural Density Residential)	R-PD2 (Residential Planned Development-2 Units per Acre)

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East	Single Family Residence	R (Rural Density Residential)	R-PD2 (Residential Planned Development-2 Units per Acre)
West	Single Family Residence	R (Rural Density Residential)	R-PD2 (Residential Planned Development-2 Units per Acre)

<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			
R-PD (Residential Planned Development) District	X		Y
A-O (Airport Overlay) District (70 feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
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, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	14,190 SF	17,930 SF	Y
Min. Lot Width	60 Feet	88 Feet	Y
Min. Setbacks (Accessory Structure, Class II)			
• Front	Not Allowed	N/A	N/A
• Side	3 Feet	5 Feet	Y
• Rear	3 Feet	5 Feet	Y
Min. Distance Between Buildings	6 Feet	56 Feet	Y
Max. Building Height	12 Feet	15 Feet	N
Max. Floor Area (Accessory Structure)	800 SF	3,000 SF	N

<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>
Paseo Montana Court	Local	N/A	55	N/A

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ANALYSIS

Pursuant to Title 19.08, accessory structures in residential zones shall not exceed 50% of the building area of the primary structure. The accessory structure is to be built using material that are similar to the primary structure and shall not exceed the height of the primary structure. This request is for a 74% deviation from the allowable square footage, a 100% deviation from the building material requirement and a 20% deviation from the allowed height of an accessory structure. All of these deviations are self-imposed hardships. The subject site is located in the Airport Overlay District and conforms to the 70-foot height restriction. The proposed Accessory Structure, (Class II) could be redesigned to meet all Title 19.08 requirements. Therefore, staff recommends denial of the request.

FINDINGS (VAR-40107)

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) contrary to Title 19 requirements. Alternative design of the proposed 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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