



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: AUGUST 9, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: DONALD E. NEWBY

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-41882	Staff recommends DENIAL, if approved subject to conditions:	

**** CONDITIONS ****

VAR-41882 CONDITIONS

Planning

1. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. 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 for all structures on the lot in compliance with Title 19 and all codes as required by the Department of Building and Safety.
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.

Public Works

5. Contact the Southern Nevada Health District (SNHD), Environmental Health Division, to obtain written approval showing compliance with a temporary permit for an individual sewage disposal system (ISDS or septic tank system), prior to the issuance of any building permits. Alternatively, connect to public sewer and abandon the ISDS according to SNHD regulations.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting approval of a Variance to address a citation issued by Code Enforcement for setback violations, excessive accessory structure building area and height, as well as accessory structures not aesthetically compatible with the primary residence. This is a property that is located on a primary arterial street and faces the rear of a walled community. There are two setback violations: first, the front porch extends five feet into the required 50-foot front yard setback; second, the newly constructed accessory structure is only four feet from the west side of the primary structure where six feet is required and was installed without building permits. Additional aspects of this request include the height, the materials used and total building area of the newly constructed shade structure. Staff recommends denial, as the applicant has presented no evidence of unique or extraordinary circumstances pursuant to Title 19.16.140 that would justify the request.

ISSUES

- A Code Enforcement case is active on this property for an accessory structure and front porch being installed without obtaining the proper building permits and not adhering to setback requirements.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
05/30/07	Code Enforcement issued a citation (#53838) for an illegal home business at 5312 Elkhorn Road. The case was closed resolved on 06/28/07.
04/11/11	Code Enforcement issued a citation (#100364) for building without the proper permits at 5312 Elkhorn Road. The case is still active.

<i>Most Recent Change of Ownership</i>	
12/27/02	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
No building permits on file. The house was constructed in 1979.	

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<i>Pre-Application Meeting</i>	
05/10/11	Staff met with the applicant and reviewed the application requirements for a Variance. Staff advised the applicant to discuss the request with his neighbors and see if they would support his application, as they would be notified of the application.

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

<i>Field Check</i>	
06/02/11	Staff visited the site and found a large carport-like structure on the west side of the property being used to store a recreation vehicle. A porch extended five feet into the front yard setback.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.98

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	ML (Medium Low Density Residential)	R-E (Residence Estates)
North	Single Family, Detached	ML (Medium Low Density Residential)	R-E (Residence Estates)
South	Single Family, Detached	ML (Medium Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	ML (Medium Low Density Residential)	R-E (Residence Estates)
West	Single Family, Detached	ML (Medium Low Density Residential)	R-E (Residence Estates)

<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	N/A
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

YK

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DEVELOPMENT STANDARDS

Pursuant to Title 19.06.060, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	42,798 SF	Y
Min. Lot Width	100 Feet	148 Feet	Y
Min. Setbacks • Front • Side • Corner • Rear	50 Feet 10 Feet 15 Feet 35 Feet	45 Feet 16 Feet N/A 211 Feet	N Y N/A Y
Min. Distance Between Buildings	6 Feet	4 Feet	N
Max. Lot Coverage	N/A	N/A	N/A
Max. Building Height	35 Feet	14 Feet	Y

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Elkhorn Road	Primary Arterial	Master Plan of Streets and Highways	100	Y

ANALYSIS

This request is for a porch addition to the front of the residence, as well as a carport structure for a recreational vehicle and other existing accessory structures for the care of horses on the property. The front porch, which was constructed without first obtaining the required permits, extends five feet into the required 50 foot front yard setback. The applicant states that the space is used to host his neighbors and to watch the neighborhood for any suspicious activity. The porch roof is of metal construction and does not match the existing shingle roof of the residence.

The applicant has several horses and the rear of the property is used to support them, with a large corral area, horse stables, and three accessory structures used to store feed and equipment. The applicant states that he recently purchased a large recreational vehicle and needs a facility to protect it from the elements. A large metal carport structure was erected without first obtaining permits in the side yard on the west side of the residence, and is not aesthetically compatible as the main residence is finished in stucco. The structure is 14 feet in height and exceeds the height of the residence by 3.5 feet. It is also located only four feet from the residence where six feet is required. With the addition of the structure, the total building area of all the accessory structures is 1,596 square feet greater than Title 19 allows. Properties that are zoned R-E (Residential Estates) are usually larger properties that may accommodate horses or other animals. The requirements for care of the animals often dictates that accessory structures exceeding the maximum allowances of Title 19 be provided for shelter, feed and other equipment storage.

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However, the accessory structure is intended to provide shade for an RV, is located where it can be clearly seen from the public right-of-way, and is not compatible with the surrounding development. In addition, the applicant has presented no evidence of unique or extraordinary circumstances pursuant to Title 19.16.140 that would justify the request

FINDINGS (VAR-41882)

In accordance with the provisions of Title 19.16.140(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 19.16.140(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, and a self-imposed hardship has been created by constructing the porch and accessory structure without first obtaining the required entitlements and building permits. Alternative design of the structure 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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APPROVALS 13

PROTESTS 12