



## AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: MAY 14, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: ANDREW A. CHIU

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### \*\* STAFF RECOMMENDATION(S) \*\*

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-48858	Staff recommends DENIAL, if approved subject to conditions:	N/A

### \*\* CONDITIONS \*\*

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## VAR-48858 CONDITIONS

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### 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 in compliance with Title 19 and all codes as required by the Department of Building and Safety.
3. The temporary chain link fencing is to be removed within 30 days, unless permitted in conjunction with a valid construction permit.
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.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The applicant is proposing a solid block wall that consists of segments of wall that are eight and nine feet in height, as well as two 10.5-foot arched gates; all of which are separated by columns that range up to 11.5 feet in height. The applicant is also proposing a solid eight-foot high block wall along the entire eastern property line, wherein a 25-foot portion falls within the front yard area. The proposed walls located within the front yard area do not comply with the Title 19 requirements, which allow for walls located within the front yard to be a maximum height of five feet with the top three vertical feet open to permit visibility. As no evidence of a hardship has been presented to justify the requested variance, staff recommends denial of this Variance. If this application is denied, the applicant will have to redesign their proposed wall to comply with all Title 19 standards.

**ISSUES**

- Wall heights within the front yard area are limited to a maximum of five feet with the top three vertical feet open to permit visibility.
- The applicant is proposing a solid block wall that consists of segments of wall that are eight and nine feet in height, as well as two 10.5-foot high arched gates within the front yard area along the north property line.
- The applicant is proposing a solid eight-foot high block wall along the entire eastern property line, wherein a 25-foot portion falls within the front yard area.
- A temporary chain link fence exists on site. The building permit to allow said fence expired on 11/07/11 and therefore, it is no longer in conformance with code.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i>	
03/12/05	A complaint (#27141) was filled with Code Enforcement for a stagnant pool. The complaint was resolved on 04/01/05.
11/09/09	A complaint (#83905) was filled with Code Enforcement for possible illegal fencing. The complaint was resolved on 11/24/09.

<i>Most Recent Change of Ownership</i>	
11/21/2012	A deed was recorded for a change in ownership.

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<b><i>Related Building Permits/Business</i></b>	
01/23/99	A building permit (#90082649) was issued for a pool. The permit was finalized on 11/05/90.
12/20/07	A building permit (#104505) was issued for a detached garage. The permit was finalized on 02/16/12.
05/02/08	A building permit (#112924) for an electrical meter tag was issued. The permit was not finalized.
11/17/09	Temporary fence permit (#151436) was issued in conjunction with site construction with the condition that it is only valid as long as there is construction occurring on site. The fence permit was finalized on 11/24/09 and there are no active building permits.

<b><i>Pre-Application Meeting</i></b>	
03/13/13	A pre-applicant meeting was held with the applicant to discuss the issues associated with the proposed walls and how they do not conform to code. The applicant was given the requirements for a wall height Variance submittal.

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

<b><i>Field Check</i></b>	
04/03/13	<p>A field check was conducted on the indicated date and the following items were noted.</p> <ul style="list-style-type: none"> <li>• The temporary chain link fence exists on site along the front (north) and the east side property lines.</li> <li>• Excessive weeds exist on site.</li> </ul> <p>The site was turned over to Code Enforcement (on 04/23/13) for the temporary fencing and excessive weeds.</p>

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	1.01

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<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	DR (Desert Rural)	R-A (Ranch Acres)
North	Single Family, Detached	DR (Desert Rural)	R-A (Ranch Acres)
South	Single Family, Detached	DR (Desert Rural)	R-A (Ranch Acres)
East	Single Family, Detached	DR (Desert Rural)	R-A (Ranch Acres)
West	Single Family, Detached	DR (Desert Rural)	R-A (Ranch Acres)

<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
No Applicable Special Purpose or Overlay Districts	N/A
Rancho Charleston Land Use Study	Y
Rural Preservation Overlay District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

## DEVELOPMENT STANDARDS

*Pursuant to 19.08.040, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	40,000 SF	43,995 SF	Y
Min. Lot Width	100 Feet	145 Feet	Y
Min. Setbacks			
• Front	50 Feet	60 Feet	Y
• Side	10 Feet	15 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear	35 Feet	125 Feet	Y
Min. Distance Between Buildings	6 Feet	27 Feet	Y
Max. Lot Coverage	N/A	N/A	N/A

\*The R-A (Ranch Acres) is legal non-conforming zoning district

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## **ANALYSIS**

The requested Variance is for a solid block wall that consists of segments of wall that are eight and nine feet in height, as well as two 10.5-foot high arched gates; all of which are separated by columns of up to 11.5 feet in height to be built in the front yard area along the northern property line. The variance request also includes a 25-foot portion of solid eight-foot high block wall that is to run the entire eastern property line, which is located within the front yard.

A survey of the immediate area surrounding the subject site revealed a Variance concerning front yard block wall heights. However, the Planning Department's recommendation is based on the merits of each application. Previous Variances can be considered in reviewing the appropriateness of Variances, but is not determinative. The burden of proof for approval of a Variance requires the presence of a hardship, as the site has no inherent topographical restrictions or extraordinary situations, does not warrant a recommendation of approval; therefore, staff is recommending denial.

## **FINDINGS (VAR-48858)**

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, in that the applicant created a self-imposed hardship by proposing to construct a block wall above the maximum height permitted by code. Alternative block wall heights 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** 23

**NOTICES MAILED** 103

**APPROVALS** 3

**PROTESTS** 0