



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: MAY 14, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: ASIA TRUST

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SCD-48926	Staff recommends DENIAL, if approved subject to conditions:	N/A

** CONDITIONS **

SCD-48926 CONDITIONS

Planning

1. Conformance to the Summerlin Development Standards, except as amended herein.
2. This approval shall be void two years from the date of final approval, unless a building permit is issued for all applicable accessory structures. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All necessary building permits shall be obtained and final inspections shall be completed in compliance with all codes as required by the Department of Building and Safety.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Major Deviation from the Summerlin Development Standards to allow three existing detached accessory structures [an outdoor barbeque island with an awning, and a prefabricated storage unit (approximately 88 square-feet)] to be permitted in the required side yard setback and within the minimum distance separation from the principle structure requirement. An awning and barbeque are located on the east property line wall thus creating a zero-foot side yard setback where five feet is required and are located five feet from the principle dwelling where six feet is required. In addition, there is a prefabricated storage shed located six-inches from the west property line and five feet from the principle dwelling where five feet and six feet are is required, respectively. The existing structures do not comply with the Summerlin Development Standards and have been located and constructed in a manner that is not harmonious with the existing neighborhood; therefore, staff is recommending denial of the setback and distance separation deviations. If denied the structures need to be relocated in a manner that conforms to current code.

ISSUES

- The Detached Accessory Structures on the east and west property line were constructed without permits and/or do not conform to the Summerlin Development Standards.
- The Detached Accessory Structure constructed on the west property line is less than 200 square-feet and does not require a building permit; however, it must meet the minimum setback of five feet and distance separation from the principal dwelling of six feet.
- Summerlin North Residential Design Review has twice denied (03/13/12 and 10/24/12) a deviation request for the awning on the east property line.
- If deviation for the barbeque on the east property line and the accessory structure on the west property line are submitted to Summerlin North Residential Design Review they “would be denied” for they do not meet the “required materials” and they do not meet the minimum “5’ setback” from the property lines.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
03/08/94	The City Council approved the Rezoning (Z-0135-93) of the property west of Hualapai Way between Cheyenne Avenue and Charleston Boulevard to PC (Planned Community).
06/14/12	A complaint was file with Code Enforcement that an awning was constructed on the property line wall, an ornamental iron fence was constructed, and other modifications without permits occurred. The complaint has not been resolved.

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<i>Most Recent Change of Ownership</i>	
12/09/11	A deed was recorded for a change in ownership.

<i>Related Building Permits/</i>	
06/29/99	A building permit (#99012386) was issued for the primary structure. The permit was finalized on 01/14/00.
10/15/99	A building permit (#99020123) was issued for a pool. The permit was finalized on 12/17/99.
08/22/12	A building permit (#218284) was submitted to permit the accessory structures (awning and barbeque) on the east property line. The permit was not issued.
08/22/12	A building permit (#218286) was applied for a balcony addition to the structure. The permit was issued on 10/15/12 but has not been finalized.

<i>Pre-Application Meeting</i>	
10/24/13	Staff met with the applicant to review the requirements for a Summerlin Major Deviation for the three existing accessory structures.

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

<i>Field Check</i>	
04/08/13	A field check was conducted to the subject property and verified that the three accessory structures and wrought iron gate exist.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.23

<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 Dwelling, Detached	SF3 (Single Family Detached)	P-C (Planned Community)
North	Single Family Dwelling, Detached	SF3 (Single Family Detached)	P-C (Planned Community)

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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>
South	Single Family Dwelling, Detached	SF3 (Single Family Detached)	P-C (Planned Community)
East	Single Family Dwelling, Detached	SF3 (Single Family Detached)	P-C (Planned Community)
West	Single Family Dwelling, Detached	SF3 (Single Family Detached)	P-C (Planned Community)

<i>Master Plan Areas</i>	<i>Compliance</i>
Summerlin	N
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
No Applicable Special Purpose or Overlay Districts	N/A
<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 the Summerlin Development Standards, the following apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front to garage face	18 Feet	22 Feet	Y
• Front to living area	10 Feet	22 Feet	Y
• Side	5 Feet	0 Feet	N
• Rear	15 Feet	35 Feet	Y
Min. Distance Between Buildings	6 Feet	4 Feet	N

ANALYSIS

Pursuant to the Summerlin Development Standards [Section 5: Property Development Standards: 2 (h)] detached accessory structures including cabanas, pool houses, gazebos, carports and storage structures may be located in the side or rear yard area. Such accessory structures must be located at least five feet from the property line and maintain a minimum separation of six feet from the principal dwelling.

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The applicant has attached an awning to the east property line wall and a located a barbeque island under said awning. Both structures are located on the east property line and are approximately five feet from the primary structure; thereby, deviating from the required side yard setback by 100 percent and deviating from the distance separation requirement by 16.6 percent. Additionally, a storage shed (approximately 88 square feet) on the west property was constructed six-inches from the property line and four feet from the primary structure equating to a 90 percent deviation from the side yard setback and a 33 percent deviation from minimum building distance separation requirement.

Pursuant to Section 5 of the Summerlin Development Standards a Major Deviation within the Summerlin Master Planned Community requires the application be referred to the Planning Commission for review and decision. All deviations must be exercised within one year from the date of approval, or the deviation shall be null and void.

As part of the review requirement a copy of the deviation request was forwarded to the Master Developer. The following comments were received:

1. The accessory structure has never been submitted to Summerlin North for approval. As it visible above the wall and does not meet the 5' setback or the required materials, if submitted, it would be denied. Summerlin North will send the property owner a letter advising them this is an **unapprovable condition**
2. The BBQ has never been submitted to Summerlin North. If it was, it would be denied as we require BBQ's to be set a minimum of 5' off the P/L wall. Summerlin North will send the property owner a letter advising them they have an **unapprovable condition.**
3. The awning on the balcony and the side yard (apparently covering the BBQ) were submitted and denied twice, once on July 13, 2012 and again on October 24, 2012. They are in the compliance process and are being monetarily penalized for the condition.
4. Summerlin North would recommend denial of the variances.

Pursuant to the Summerlin Development Standards, detached accessory structures must have a minimum side yard setback of five feet and a separation distance from the principle structure of six feet. The three existing detached accessory structures fail to meet the minimum side yard setback and the minimum building distance separation requirement which constitutes a self imposed hardship; therefore, staff recommends denial. If this application is denied then the property owner will have to relocate the accessory structures to conform to the Summerlin Development Standards or remove them entirely.

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FINDINGS SCD-48926

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 has created a self-imposed hardship by constructing three detached accessory structures in the side yard setback area and positioned in a manner that they do not meet the minimum distance separation requirement. Alternatively, the relocating of the structures to the rear yard would allow for conformance to the Summerlin Development Standards. 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

10

NOTICES MAILED

395

APPROVALS

0

PROTESTS

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