



## AGENDA MEMO - PLANNING

**CITY COUNCIL MEETING DATE: SEPTEMBER 17, 2014**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT/OWNER: B M L J H L 2011 TRUST**

*THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 3, 2014 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILWOMAN TARKANIAN.*

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

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                                       | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|-------------------------------------------------------------|----------------------------------|
| <b>VAR-53482</b>       | Staff recommends DENIAL, if approved subject to conditions: |                                  |

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

## VAR-53482 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 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. Prior to construction, obtain approval from the Southern Nevada Health District to insure there is no conflict with the existing Individual Sewage Disposal System (Septic Tank).

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

**PROJECT DESCRIPTION**

This is a request for a Variance to allow an existing Accessory Structure (Class II) [playground set] that was constructed without building permits to be located two feet away from the rear property line where ten feet is the minimum required and two feet away from the main dwelling unit where six feet is the minimum required by code. The site is located at 2010 Homeview Court, in an R-PD2 (Residential Planned Development – 2 Units per Acre) zoning district. No unique or extraordinary evidence has been presented to warrant the requested Variance. As such, the hardship is self-imposed and staff recommends denial of this request.

**ISSUES**

- A code enforcement case was created for the building of an accessory structure without proper permits on the east side of the property.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i></b> |                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/06/86                                                                 | The City Council approved a Petition to Annex (A-0009-85) property generally located south of Charleston Boulevard, between Torrey Pines Drive and Fort Apache Road. The annexation became effective on 03/28/86.                                                                                                |
| 08/05/87                                                                 | The City Council approved a Rezoning (Z-0059-87) from R-E (Residence Estates) to R-PD2 (Residential Planned Development – 2 Units per Acre) on properties located on the east side of Tioga Way, between El Parque Avenue and O'Bannon Drive. Planning Commission and staff recommended approval.                |
| 11/23/98                                                                 | The City Council approved a General Plan Amendment (GPA-0027-98) from R (Rural Density Residential) to DR (Desert Rural Density Residential) on properties bounded by the Holmby Avenue alignment, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive. Planning Commission and staff recommended approval. |
| 06/10/14                                                                 | The Planning Commission (5-1 vote/ts) voted to approve a request for Variance to allow an accessory structure (class ii) to be located two feet from the rear property line where ten feet is the minimum required; and to allow two feet from the principle dwelling where six feet is the minimum required.    |
| 06/16/14                                                                 | An appeal was filed with the Office of the City Clerk of the approval by the Planning Commission for VAR-53482 [PRJ-53481] and is scheduled to be considered by the City Council on SEPTEMBER 17, 2014.                                                                                                          |

| <b><i>Most Recent Change of Ownership</i></b> |                                                |
|-----------------------------------------------|------------------------------------------------|
| 01/25/12                                      | A deed was recorded for a change in ownership. |

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| <b><i>Related Building Permits/Business Licenses</i></b> |                                                                                                                                                                                       |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| c. 1989                                                  | The existing 3,858 square-foot single family residence was constructed.                                                                                                               |
| 01/27/14                                                 | A code enforcement citation (#137298) was issued for a two-story playground set located two feet from the rear property line at 2010 Homeview Court. The citation remains unresolved. |

| <b><i>Pre-Application Meeting</i></b> |
|---------------------------------------|
| No pre-application meeting was held.  |

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

| Field Check |                                                                                            |
|-------------|--------------------------------------------------------------------------------------------|
| 05/01/14    | Staff conducted a routine field check and noted a well maintained single family residence. |

| <b><i>Details of Application Request</i></b> |      |
|----------------------------------------------|------|
| <b><i>Site Area</i></b>                      |      |
| Gross Acres                                  | 0.52 |

| <b><i>Surrounding Property</i></b> | <b><i>Existing Land Use Per Title 19.12</i></b> | <b><i>Planned or Special Land Use Designation</i></b> | <b><i>Existing Zoning District</i></b>                     |
|------------------------------------|-------------------------------------------------|-------------------------------------------------------|------------------------------------------------------------|
| Subject Property                   | Single Family Residence                         | DR (Desert Rural Density Residential)                 | R-PD2 (Residential Planned Development – 2 Units per Acre) |
| North                              | Single Family Residence                         | DR (Desert Rural Density Residential)                 | R-PD2 (Residential Planned Development – 2 Units per Acre) |
| South                              | Single Family Residence                         | DR (Desert Rural Density Residential)                 | R-PD2 (Residential Planned Development – 2 Units per Acre) |
| East                               | Single Family Residence                         | DR (Desert Rural Density Residential)                 | R-PD2 (Residential Planned Development – 2 Units per Acre) |
| West                               | Single Family Residence                         | DR (Desert Rural Density Residential)                 | R-PD2 (Residential Planned Development – 2 Units per Acre) |

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| <b><i>Master Plan Areas</i></b>                                            | <b><i>Compliance</i></b> |
|----------------------------------------------------------------------------|--------------------------|
| No Applicable Master Plan Area                                             | N/A                      |
| <b><i>Special Purpose and Overlay Districts</i></b>                        | <b><i>Compliance</i></b> |
| R-PD (Residential Planned Development) District                            | Y                        |
| Rural Preservation Overlay District                                        | Y                        |
| <b><i>Other Plans or Special Requirements</i></b>                          | <b><i>Compliance</i></b> |
| 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 Title 19.06, the following standards apply:***

| <b><i>Standard</i></b>            | <b><i>Required/Allowed</i></b>                      | <b><i>Provided</i></b> | <b><i>Compliance</i></b> |
|-----------------------------------|-----------------------------------------------------|------------------------|--------------------------|
| Min. Lot Size                     | 20,000 SF                                           | 21,780 SF              | Y                        |
| Min. Lot Width                    | 100 Feet                                            | 108 Feet               | Y                        |
| Accessory Structure Min. Setbacks |                                                     |                        |                          |
| • Side                            | 10 Feet                                             | 70 Feet                | Y                        |
| • Corner                          | N/A                                                 | N/A                    | N/A                      |
| • Rear                            | 10 Feet                                             | 2 Feet                 | N                        |
| Min. Distance Between Buildings   | 6 Feet                                              | 2 Feet                 | N                        |
| Accessory Structure Height        | Two Stories or 35 Feet in height, whichever is less | 15 Feet                | Y                        |

## **ANALYSIS**

This application is a request for a Variance to allow an existing 15-foot tall, 190 square-foot Accessory Structure (Class II) [playground set] that was constructed without building permits to be located two feet away from the rear property line where ten feet is the minimum required and two feet away from the main dwelling unit where six feet is the minimum required. Title 19.06 requires accessory structures in all residential zoning districts to maintain a minimum distance separation of six feet from the principle dwelling unit. In addition, Title 19.06 requires accessory structures located on property with an R-E (Residence Estates) zoning destination to be set back at least ten feet from the rear property line. No substantial evidence has been presented to warrant the requested Variance. The existing accessory structure can be redesigned or relocated to meet current code requirements. As such, the hardship is self-imposed and staff recommends denial.

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**FINDINGS (VAR-53482)**

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 an Accessory Structure (Class II) [playground set] without building permits, two feet away from the rear property line where ten feet is minimum required and two feet away from the main dwelling unit where six feet is the minimum required. The existing structure could be relocated to an alternative location 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.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**NOTICES MAILED**

119 (By City Clerk)

**APPROVALS**

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**PROTESTS**

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