



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: JUNE 17, 2015

DEPARTMENT: PLANNING

**ITEM DESCRIPTION: APPLICANT/OWNER: INVESTOR EQUITY HOMES, LLC 50%
AND MOSAIC LAND 2, LLC 50%**

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-58599	Staff recommends DENIAL, if approved subject to conditions:	
VAR-58600	Staff recommends DENIAL, if approved subject to conditions:	
VAR-58682	Staff recommends DENIAL, if approved subject to conditions:	
WVR-58613	Staff recommends DENIAL, if approved subject to conditions:	
TMP-58528	Staff recommends DENIAL, if approved subject to conditions:	VAR-58599 VAR-58600 VAR-58682 WVR-58613

** CONDITIONS **

VAR-58599 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Tentative Map (TMP-58528) shall be required, if approved.
2. The Equestrian Trail shall be installed and will include the 10-foot wide trail, the 5-foot wide sidewalk and the 5-foot wide landscaped amenity area.
3. 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.

YK

4. 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

7. Sign and record a Covenant Running with Land Agreement for half street improvements not constructed at this time on Racel Street and Tioga Way. Extend all required underground utilities, such as electrical, telephone, etc., located within public rights-of-way, past the boundaries of this site prior to construction of hard surfacing (asphalt or concrete).
8. The installation of streetlights shall be deferred provided that exterior street lighting shall be stubbed out for later use, including all necessary underground improvements including bases, conduit and pull boxes at each streetlight location, and the developer provides to the City such streetlights for future installation. Alternatively, monies in lieu of such deferred streetlights, including bases, may be contributed to the City if allowed by the Department of Public Works. Coordinate with the Traffic Engineering Section of the Department of Public Works regarding street lighting requirements prior too submittal of construction drawings.

VAR-58600 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Tentative Map (TMP-58528) shall be required, if approved.
2. 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.
3. 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.

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.

VAR-58682 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Tentative Map (TMP-58528) shall be required, if approved.
2. 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.
3. 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.
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.

TMP-58528 CONDITIONS

Planning

1. Approval and conformance to the conditions of approval of variances (VAR-58599, VAR-58600 and VAR-58682) and waiver (WVR-58613) shall be required, if approved.
2. Approval of the Tentative Map shall be for no more than four (4) years. If a Final Map is not recorded on all or a portion of the area embraced by the Tentative Map within four (4) years of the approval of the Tentative Map, this action is void.

3. Street names must be provided in accordance with the City's Street Naming and Addressing Regulations.
4. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
5. In conjunction with creation, declaration and recordation of the subject common-interest community, and prior to recordation of the Covenants, Codes and Restrictions ("CC&R"), or conveyance of any unit within the community, the Developer is required to record a Declaration of Private Maintenance Requirements ("DPMR") as a covenant on all associated properties, and on behalf of all current and future property owners. The DPMR is to include a listing of all privately owned and/or maintained infrastructure improvements, along with assignment of maintenance responsibility for each to the common interest community or the respective individual property owners, and is to provide a brief description of the required level of maintenance for privately maintained components. The DPMR must be reviewed and approved by the City of Las Vegas Department of Field Operations prior to recordation, and must include a statement that all properties within the community are subject to assessment for all associated costs should private maintenance obligations not be met, and the City of Las Vegas be required to provide for said maintenance. Also, the CC&R are to include a statement of obligation of compliance with the DPMR. Following recordation, the Developer is to submit copies of the recorded DPMR and CC&R documents to the City of Las Vegas Department of Field Operations.
6. All development is subject to the conditions of City Departments and State Subdivision Statutes.

Public Works

7. Dedicate a 20-foot radius on the southeast corner of Racel Street and Tioga Way. Additionally, grant an Equestrian Trail Easement to be maintained by the Homeowner's Association until the equestrian trail is transferred to the City. Per the Trails Element, the equestrian trail path can only be transferred to the City after it is fully constructed and only if the path meets the requirements outlined in the Trails Element.
8. Construct all half-street improvements on Racel Street and Tioga Way adjacent to this site, including the required equestrian trail along Racel Street, unless otherwise amended by an approved Variance or Waiver to defer off-site improvements, such as VAR-58599. All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site. Extend all required underground utilities, such as electrical, telephone, etc., located within public rights-of-way, past the boundaries of this site.

VAR-58599, VAR-58600, VAR-58682, WVR-58613 & TMP-58528 [PRJ-58320]
Conditions Page Five
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9. The private streets for this site must be granted as Public Utility Easements, Public Sewer Easements, and Public Drainage Easements with private surface maintenance by the Homeowner's Association.
10. Landscape and maintain all unimproved right-of-way adjacent to this site. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
11. Submit an Encroachment Agreement for landscaping and private improvements, if any, in the Racel Street and Tioga Way public rights-of-way prior to this issuance of permits for these improvements. The applicant must carry an insurance policy for the term of the Encroachment Agreement and add the City of Las Vegas as an additionally insured entity on this insurance policy. If requested by the City, the applicant shall remove property encroaching in the public right-of-way at the applicant's expense pursuant to the terms of the City's Encroachment Agreement. The installation and maintenance of all private improvements in the public right of way shall be the responsibility of the adjacent property owner(s) and shall be transferred with the sale of the property for the entire term of the Encroachment Agreement. Coordinate all requirements for the Encroachment Agreement with the Land Development Section of the Department of Building and Safety (229-4836).
12. A Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits or submittal of any construction drawings, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a four-lot single-family residential subdivision located on the southeast corner of Racel Street and Tioga Way. The applicant is requesting several deviations from code requirements to allow for no installation of off-site and on-site improvements, as well as wall heights and street intersection off-sets, as reflected in the three Variances and one Waiver application that are associated with the Tentative Map. Although staff can support the additional wall height and intersection off-set, the remaining three applications are not supported. As a result, staff recommends denial of all five applications associated with this request. If denied, no permits can be issued for a four-lot residential subdivision and the parcel will remain undivided.

ISSUES

- A Variance (VAR-58599) is required to allow no offsite improvements on Tioga Way and no curb, gutter or streetlights on Racel Street where such are required. Staff does not support this request.
- A Variance (VAR-58600) is required to allow an eight-foot tall retaining wall where four feet is the maximum allowed. Staff supports this request as a result of the natural slope of the parcel.
- A Variance (VAR-58682) is required to allow no sidewalks, streetlights or gate on a private street where such are required. Staff does not support this request.
- A Waiver (WVR-58613) is required to allow a 175-foot intersection offset where 220 feet is required. Staff supports this request as no heavy traffic volume is expected to be generated by this development in the area.
- A Tentative Map is required since the applicant requests Waivers from the development standards. Staff does not support this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
02/18/15	The City Council approved an Annexation (ANX-56802) for this site as part of a larger request. The effective date was 02/27/15.
05/12/15	The Planning Commission unanimously voted to recommend APPROVAL on requests for a Variance (VAR-58599) to allow no offsite improvements on Tioga Way and no curb, gutter or streetlights on Racel Street where such are required, Variance (VAR-58600) to allow an eight-foot tall retaining wall where four feet is the maximum allowed, Variance (VAR-58682) to allow no sidewalks, streetlights or gate on a private street where such are required, Waiver (WVR-58613) to allow a 175-foot intersection offset where 220 feet is required and Tentative Map (TMP-58528) for a four-lot single-family residential subdivision on 2.36 acres on the southeast corner of Racel Street and Tioga Way.

VAR-58599, VAR-58600, VAR-58682, WVR-58613 & TMP-58528 [PRJ-58320]
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<i>Most Recent Change of Ownership</i>	
08/16/13	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>
No permits are on file for this site.

<i>Pre-Application Meeting</i>	
03/11/15	Staff met with the applicant to review a five-lot residential subdivision, with one of the lots being a common lot. The applicant stated the project would be developed to code.
04/01/15	Staff met with the applicant a second time to work out the applications required for a four-lot residential subdivision, as the applicant had changed the scope of the project since the first pre-application meeting.

<i>Neighborhood Meeting</i>
No neighborhood meeting was required, nor was one held.

<i>Field Check</i>	
04/02/15	Staff visited the site and found an undeveloped parcel, clean and free of trash.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	2.36

<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	Undeveloped	RNP (Rural Neighborhood Preservation)	R-E (Residence Estates)
North	Single-Family, Detached	PCD (Planned Community Development)	R-PD3 (Residential Planned Development – 3 Units per Acre)
South	Undeveloped	RN (Rural Neighborhood) Clark County	R-E (Rural Estates Residential District) Clark County

<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>
East	Single-Family, Detached	RN (Rural Neighborhood) Clark County	R-E (Rural Estates Residential District) Clark County
West	Single-Family, Detached	RN (Rural Neighborhood) Clark County	R-E (Rural Estates Residential District) Clark County

<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
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	Y
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

<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>
Racel Street	Minor Collector	Planned Streets and Highways Map	54	N
Tioga Way	Minor Collector	Planned Streets and Highways Map	60	Y

<i>Streetscape Standards</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
Racel Street	To install curb, gutter, streetlights, a five-foot wide amenity area, a five-foot wide sidewalk and a 10-foot wide Equestrian Trail.	To install a five-foot wide amenity area, a five-foot wide sidewalk and a 10-foot wide Equestrian Trail.	N
Tioga Way	To install curb, gutter, streetlights, a five-foot wide sidewalk and a five-foot wide amenity area.	To provide none of the requirements.	N

<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
To provide a 220-foot distance separation between intersections when providing external access to an existing or planned ROW of 60 feet or greater per Title 19.02.140.	To allow a 175-foot offset from the intersections of Tioga Way and the proposed Private Street.	Approval

ANALYSIS

The applicant has submitted a Tentative Map for the development of a four-lot residential subdivision that includes three Variances and a Waiver request for approval. The first Variance (VAR-58599) seeks relief from the requirement of installing offsite improvements along both Tioga Way and Racel Street. The applicant states in the justification letter; “It is the developer’s belief that by constructing full offsite improvements this would not be consistent with the surrounding neighborhood and cause issues with the neighbors who currently own horse properties in the area.” Staff does not concur with this assessment of the area and cite the completed residential subdivision on the north side of Racel Street as a reason for requiring the offsite improvements, as they did.

Public Works Department staff had the following comment regarding VAR-58682: “when a site is developed in the City of Las Vegas, it is customary to require the installation of all incomplete or damaged improvements surrounding the site so they match what exists in the surrounding area. Additionally, Title 19.04.070.E is in place to clearly separate private streets from public streets where they do not meet public standards as there is otherwise little to differentiate between public and private without a gate.

Although half street improvements are not customary in this area, the City is currently working on building complete streets throughout the City. In the recent past, projects similar to this one have provided all half-street improvements except for sidewalks and streetlights. A project at the northeast corner of Tioga Way and Grand Teton Drive has permits issued to construct complete half-street improvements on Tioga Way. Additionally, no gate is being provided for the private street cul-de-sac. Therefore, Public Works recommends denial of this application. However, if approved, with conditions.”

The second Variance (VAR-58600) seeks relief from limiting the retaining wall height to four feet. The applicant is requesting portions of the retaining wall to be nearly eight feet high as a result of the natural slope of the parcel. The added height is required in order to create the necessary slope to allow the sewer to drain to the north, where the main sewer connection is located in the Racel Street right-of-way. Staff supports this request as this hardship is not self-created and is necessary in order for the development of the parcel. However, since staff does not support the other variance requests, we are recommending denial of all associated applications.

VAR-58599, VAR-58600, VAR-58682, WVR-58613 & TMP-58528 [PRJ-58320]
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The submitted north/south cross section show a maximum natural grade less than 2% across this site. Per the Tables in Subdivision Code 19.06.050 a development with natural slope less than or equal to 2%, is allowed a maximum 4-foot retaining wall. An 8-foot high retaining wall is shown along the southern property line.

The submitted east/west cross section show a maximum natural grade less than 2% across this site. Per the Tables in Subdivision Code 19.06.050 a development with natural slope less than or equal to 2%, is allowed a maximum 4-foot retaining wall. A 3.5-foot retaining wall and an 8-foot high retaining wall are shown interior to the site.

The third Variance (VAR-58682) seeks relief from installing sidewalks, streetlights and a gate for a proposed private street. The applicant cites several nearby four-lot residential subdivisions with similar conditions. These are primarily located within Clark County and were developed under a different jurisdiction's standards. The property was recently annexed into the City at the current owners request knowing that development would require City of Las Vegas development standards. Staff does not support this request.

In addition, the applicant requests a Waiver (WVR-58613) to allow an intersection offset to be less than the required 220 feet. Public Works staff supports this request, but has indicated that future traffic increases may require mitigation measures. Staff supports this request. However, since staff does not support two of the variance requests, we are recommending denial of all associated applications.

A Tentative Map was required, verses a Parcel Map as a result of the need for a separate lot, in which to locate the required Equestrian Trail along Racel Street. The applicant intends to install the trail on a separate parcel and then deed it to the City of Las Vegas to maintain. A Parcel Map does not allow for the proposed five-lot configuration.

The applicant is requesting development of a parcel with multiple deviations from the City of Las Vegas development standards as evidences by the three Variances and one Waiver request for this relatively small project. A majority of these requests are not supported by staff and could create issues that the City would have to address in the future.

In conclusion, a four-lot single-family residential subdivision is an appropriate use for the parcel when developed to City of Las Vegas development standards. However, the applicant has requested several deviations from the City's codes and as a result, staff recommends denial of all applications as submitted for the project.

FINDINGS (VAR-58599)

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 proposing to not install the required offsite improvements adjacent to their proposed development. An alternative is to install the offsite improvements 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.

FINDINGS (VAR-58600)

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:

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Evidence of a unique or extraordinary circumstance has been presented, in that the applicant has not created a self-imposed hardship by requesting to install an eight-foot tall retaining wall. Do to the natural grade and contour of the land there are no alternatives that would allow for conformance to the Title 19 requirements. As a result of this hardship imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is not preferential in nature, and it is thereby within the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (VAR-58682)

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 proposing to not install a gate, sidewalks or streetlights on a private street. An alternative is to install these requirements 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.

FINDINGS (WVR-58613)

Public Works has no immediate concerns with the requested Waiver of intersection offset distance; however it is possible that traffic patterns in the future might require the limitation of vehicular movements at the subject intersection to ensure safe operation.

FINDINGS (TMP-58528)

The Tentative Map conforms to Nevada Revised Statutes for a subdivision of land. However, as evidenced by the three Variances and one Waiver request of Title 19, the project is not appropriate in its current design; therefore, staff recommends denial.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

37 - VAR-58682 & TMP-58528
36 - WVR-58613

26 - VAR-58599 & VAR-58600

NOTICES MAILED

169 - VAR-58599, VAR-58600 & VAR-58682 (By City Clerk)
169 - WVR-58613 & TMP-58528

APPROVALS

0 - VAR-58599, VAR-58600 & VAR-58682
0 - WVR-58613 & TMP-58528

PROTESTS

6 - VAR-58599, VAR-58600 & VAR-58682
6 - WVR-58613 & TMP-58528