



**AGENDA MEMO - PLANNING**

**PLANNING COMMISSION MEETING DATE: AUGUST 12, 2014**  
**DEPARTMENT: PLANNING**  
**ITEM DESCRIPTION: APPLICANT: ERIK MARTONOVICH - OWNER: BCNV, LLC**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-53657	Staff recommends DENIAL, if approved subject to conditions:	

**\*\* CONDITIONS \*\***

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**VAR-53657 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. 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**

The subject site consists of a 1,092 square-foot single family residence, a horse corral and horse stables located at 5636 Donald Road. The applicant is requesting a Variance to address a citation issued by Code Enforcement for excessive accessory structure height. The applicant constructed a 16-foot tall and a 37-foot tall horse training apparatuses that exceed the height of the main dwelling unit. The horse training apparatuses were constructed without proper building permits. Staff recommends denial, as the applicant has presented no evidence of a unique or extraordinary circumstance pursuant to Title 19.16.140 that would justify the request.

**ISSUES**

- A code enforcement case is active on this property for two unpermitted accessory structures being taller than the primary dwelling unit. The citation also includes excessive junk cars, scrap metal, trash, and a grandstand built without permits at the subject site.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i>	
05/06/64	The Board of City Commissioners approved a Petition to Annex (A-0003-64) approximately 5,000 acres located north of Lone Mountain Road and west of Decatur Boulevard. The annexation recorded on 05/20/64.
06/10/14	The request for a Variance (VAR-53657) was pulled from the 06/10/14 Planning Commission meeting for missing ownership documents. The case is scheduled to be heard at the 07/08/14 Planning Commission meeting.
07/08/14	The request for a Variance (VAR-53657) was pulled from the 07/08/14 Planning Commission meeting for missing ownership documents. The case is scheduled to be heard at the 08/12/14 Planning Commission meeting.

<i>Most Recent Change of Ownership</i>	
08/27/04	A deed was recorded for a change in ownership.

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<b><i>Related Building Permits/Business Licenses</i></b>	
c. 1974	The existing 1,092 square-foot single family residence was constructed.
01/31/11	A code enforcement citation (#97700) was issued for junk cars, scrap metal, trash, and an open fire pit in the front yard at 5636 Donald Road. The citation was resolved on 03/01/11.
07/02/13	A code enforcement citation (#130630) was issued for junk cars, scrap metal, garbage and unpermitted horse trapeze and grandstands at 5636 Donald Road. The citation remains unresolved.

<b><i>Pre-Application Meeting</i></b>	
12/17/13	Staff met with the representative to discuss the existing horse apparatuses at 5636 Donald Road. Staff concluded that a Variance would be required to allow the accessory structures to remain on-site. The submittal requirements for an accessory structure were discussed.

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

<b><i>Field Check</i></b>	
05/01/14	Staff conducted a routine field check at 5636 Donald Road and noted debris and scrap metal within the rear and side yards.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	2.07

<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	L (Low Density Residential)	R-E (Residence Estates)
North	Undeveloped	L (Low Density Residential)	R-E (Residence Estates)
South	Single Family Residence	L (Low Density Residential)	R-E (Residence Estates)
East	Single Family Residence	L (Low Density Residential)	R-E (Residence Estates)
West	Undeveloped	R (Rural Density Residential)	R-E (Residence Estates)

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<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>
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 Title 19.06, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	89,975 SF	Y
Min. Lot Width	100 Feet	295 Feet	Y
Accessory Structure Min. Setbacks			
• Side	10 Feet	200 Feet	Y
• Corner	15 Feet	57 Feet	Y
• Rear	10 Feet	55 Feet	Y
Accessory Structure Max. Building Height	Feet	16 Feet	N
	Feet	37 Feet	N

<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>
Donald Road	Collector Street	Master Plan of Streets and Highways	34 Feet	N

## ANALYSIS

The applicant is requesting approval of a Variance to address a citation issued by Code Enforcement for excessive accessory structure height at 5636 Donald Road. The subject site is approximately two acres in size, contains a 1,092 square-foot single family residence and two horse stables located within the rear yard. The property has a current zoning designation of R-E (Residence Estates), which allows for the accommodation of horses. The applicant constructed two accessory structures, a 16-foot tall and a 37-foot tall horse training apparatuses that exceed the height of the main dwelling unit. According to the applicant's justification letter, the heights

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of the accessory structures are required to safely train the horses for “trick riding”. The applicant is a competitive vaulter, which is the sport of gymnastics on horseback. He started the company Big Horse Productions, which travels across the United States performing equestrian acrobatic shows. Big Horse Company is based in Las Vegas where the horses stay at 5636 Donald Road while not traveling. The applicant resides at the location and uses the two-acre site to train his personal horses. The letter further explains that although no commercial events take place on the subject site, the applicant does invite neighbors to watch the training at any time.

The proposed accessory structures meet all other Title 19 requirements regarding location, setbacks, and building area. However, the applicant has presented no evidence of unique or extraordinary circumstances pursuant to Title 19.16.140 that would justify the request. Therefore, staff recommends denial.

**FINDINGS (VAR-53657)**

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 the accessory structures without first obtaining 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.

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**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 33

**NOTICES MAILED** 112

**APPROVALS** 0

**PROTESTS** 0