

*City of Las Vegas*

**AGENDA MEMO - PLANNING**

PLANNING COMMISSION MEETING DATE: JUNE 13, 2017

DEPARTMENT: PLANNING

ITEM DESCRIPTION: - APPLICANT/OWNER: ANGELA MURILLO

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
VAR-69668	Staff recommends DENIAL, if approved subject to conditions:	

**\*\* NOTIFICATION \*\***

NEIGHBORHOOD ASSOCIATIONS NOTIFIED                      28

NOTICES MAILED    462

PROTESTS    0

APPROVALS    0

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

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**VAR-69668 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. If approved, the applicant shall obtain a building permit within 90 days of the final Variance approval date for the subject patio cover.
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.

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

**PROJECT DESCRIPTION**

This is a request to keep an existing patio cover in a required rear yard and side yard setback area. The subject site is located at 5663 Foxglove Field Street.

**ISSUES**

- This is a request to allow a two-foot rear yard setback and a four-foot side yard setback where five feet is required for an existing patio cover. Staff does not support the request.

**ANALYSIS**

The subject site is located in a R-PD8 (Residential Planned Development – 8 Units per Acre) zoning district. This district does not specify development standards for patio covers. Per Title 19, whenever development standards are not provided within the corresponding Site Development Plan Review of a Residential Planned Development, proposed development shall be required to meet the development standards of the closest equivalent residential zoning district found in Title 19. The subject patio cover must adhere to the development standards of the R-CL (Single Family Compact-Lot) zoning district. This district requires patio covers to have a five-foot rear yard and side yard setback. The applicant proposes to keep an existing patio cover in its current location with a two-foot rear yard setback and a four-foot side yard setback. During a field check conducted by staff, an existing patio cover was found which matched the exterior façade of the principal dwelling.

Code Enforcement issued Case #167255 for construction of the subject patio cover without a permit. Since this is a self-imposed hardship created by the owner, staff recommends denial of the request. If approved, the applicant will be able to keep their existing patio cover as constructed. If denied, the structure would have to be removed or altered to conform to the standards of Title 19.06.

**FINDINGS (VAR-69668)**

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:

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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 a structure that does not meet 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.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
03/18/05	The City Council approved a request for General Plan Amendment (GPA-5820) to amend a portion of the Centennial Hills Sector Plan of the General Plan from O (Office) to MLA (Medium-Low Attached Density Residential) on 10.76 acres adjacent to the northeast corner of Rio Vista Street and Ann Road.
03/18/05	The City Council approved Site Development Plan Review (SDR-5881) for a 93 lot single-family residential development on 10.76 acres adjacent to the northeast corner of Rio Vista Street and Ann Road.
03/18/05	The City Council approved Rezoning Request (ZON-5880) to allow a rezoning from U (Undeveloped) and R-E (Residence Estates) to R-PD8 (Residential Planned Development – 8 Units per Acre) on 10.76 acres adjacent to the northeast corner of Rio Vista Street and Ann Road.
04/19/05	The Planning Commission approved a requires for Tentative Map (TMP -6215) for a 90 lot residential subdivision on 10.72 acres adjacent to the northwest corner of Ann Road and Balsam Street.

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<b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b>	
04/10/07	Final Map (FMP 10401) for a 90 lot residential subdivision on 10.72 acres adjacent to the northwest corner of Ann Road and Balsam Street was recorded on 04/12/07.
05/31/16	Code Enforcement Case #167255 was issued for the construction of an unpermitted patio cover. The case remains open.

<b>Most Recent Change of Ownership</b>	
04/03/14	A deed was recorded for a change in ownership.

<b>Related Building Permits/Business Licenses</b>	
There are no related building permits or business licenses on file.	

<b>Pre-Application Meeting</b>	
01/24/17	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed.

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

<b>Field Check</b>	
05/04/17	Staff conducted a routine field check and found a well maintain single family dwelling with a constructed patio cover in the rear yard.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.06

<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD8 (Residential Planned Development 8 units/acre)

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<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
North	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD8 (Residential Planned Development - 8 Units/Acre)
South	Open Space	ML (Medium-Low Density Residential)	R-PD8 (Residential Planned Development - 8 Units/Acre)
East	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD8 (Residential Planned Development - 8 Units/Acre)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
Centennial Hills Sector Plan	Y
<b>Special Purpose and Overlay Districts</b>	<b>Compliance</b>
No Applicable Special Purpose or Overlay Districts	N/A
<b>Other Plans or Special Requirements</b>	<b>Compliance</b>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.06.080, the following standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Setbacks			
• Side	5 Feet	4 Feet	N
• Corner	5 Feet	NA	N/A
• Rear	10 Feet	2 Feet	N
Max. Lot Coverage	70 %	57 %	Y
Max. Building Height	35 Feet	9 Feet	Y