



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: MARCH 12, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: ASTORIA RESIDENTIAL - OWNER: T H M ENTERPRISES, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-47839	Staff recommends DENIAL, if approved subject to conditions:	
VAR-47840	Staff recommends DENIAL, if approved subject to conditions:	
WVR-47976	Staff recommends DENIAL, if approved subject to conditions:	
TMP-47838	Staff recommends DENIAL, if approved subject to conditions:	VAR-47839 VAR-47840 WVR-47976

** CONDITIONS **

VAR-47839 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (VAR-47840) and Tentative Map (TMP-47838) shall be required, if approved.
2. This approval shall be void four (4) 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.

YK

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5.All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

VAR-47840 CONDITIONS

Planning

- 1.Approval of and conformance to the Conditions of Approval for Variance (VAR-47839) and Tentative Map (TMP-47838) shall be required, if approved.
- 2.This approval shall be void four (4) 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.

Public Works

- 6.Construct private street improvements interior to this site to include a 40 foot width with rolled curb, no sidewalk or streetlights. No gating of this street is required.

WVR-47976 CONDITIONS

Planning

- 1.Approval of and conformance to the Conditions of Approval for Variances (VAR-47839), (VAR-47840) and Tentative Map (TMP-47838) shall be required, if approved.

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2. This approval shall be void four (4) years from date of final approval, unless a building permit has been issued for new construction. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

TMP-47838 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variances (VAR-47839), (VAR-47840) and Waiver (WVR-47976) 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 Regulations.
4. 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.
5. All development is subject to the conditions of City Departments and State Subdivision Statutes.

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Public Works

6. Dedicate 30 feet of right-of-way adjacent to this site for Hickam Avenue, 30 feet for Juliano Road, and dedicate a 15 foot radius at the southeast corner of Hickam Avenue and Juliano Road.
7. Construct half-street improvements on Juliano Road and Hickam Avenue, including appropriate overpaving if legally able, adjacent to this site concurrent with associated on-site development activities. Extend all required underground utilities, such as electrical, telephone, traffic signal system, etc., located within public rights-of-way, prior to construction of hard surfacing (asphalt or concrete). 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.
8. Private streets must be granted and labeled on the Final Map for this site as Public Utility Easements (P.U.E.), City of Las Vegas Sewer Easements and Public Drainage Easements to be privately maintained by the Homeowner's Association. Additionally, the Final Map for this site shall clearly state who is responsible for surface maintenance of the public drainage easement shown on Lot 2 (i.e. Owner of Lot 2 or HOA).
9. A Homeowner's Association or other similar Maintenance Organization shall be established to maintain all private roadways, public easements, and common areas created with this development. All landscaping 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.
10. A minimum of two lanes of asphalt pavement on the major access street(s) adjacent to this site, and a working sanitary sewer connection shall be in place prior to final inspection of any units within this development. All off-site improvements adjacent to this site, including all required landscaped areas between the perimeter walls and adjacent public streets, shall be constructed and accepted prior to issuance of building permits beyond 75%. The above thresholds notwithstanding, all required improvements shall be constructed within 24 months of approval of construction drawings. No partial bond releases will be allowed until all perimeter roadway improvements are in place.

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11. 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, submittal of any construction drawings or the submittal of a Map subdividing this site, 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.
12. The approval of all Public Works related improvements shown on this Tentative Map is in concept only. Specific design and construction details relating to size, type and/or alignment of improvements, including but not limited to street, sewer and drainage improvements, shall be resolved prior to approval of the construction plans by the City. No deviations from adopted City Standards shall be allowed unless specific written approval for such is received from the City Engineer prior to the recordation of a Final Map or the approval of subdivision-related construction plans, whichever may occur first. Approval of this Tentative Map does not constitute approval of any deviations. If such approval cannot be obtained, a revised Tentative Map must be submitted showing elimination of such deviations.

Staff Report Page One**March 12, 2013 - Planning Commission Meeting****** STAFF REPORT ******PROJECT DESCRIPTION**

The applicant is proposing a five-lot residential subdivision on 2.5 acres zoned R-E (Residence Estates) near the southeast corner of Juliano Road and Hickam Avenue. The proposed lots do not meet the minimum design standards for the zoned district, which requires a Variance. In addition, a Variance is required to address the proposed private street that doesn't adhere to minimum design standards. The proposed location of the private street is within 220 feet of an existing intersection, which triggers the need for a Waiver. The development of this parcel as presented is not compatible with the surrounding area. This vacant land has no physical abnormalities that would require any deviations from code in order to be fully developed; therefore, staff recommends denial of all requested applications. If denied, the parcel would remain undeveloped.

ISSUES

- A Variance is required to allow a 15,260 square-foot lot where the minimum allowed is 20,000 square feet, to allow an 85-foot lot width where the minimum required is 100 feet and to allow a 28-foot front yard setback on Lots 1 and 5 where the minimum required is 30 feet. Staff does not support this request.
- A Variance is required to allow a private street to not comply with minimum standards including no sidewalks or streetlights and a width of 40 feet where a minimum of 47 feet is required. Staff does not support this request.
- A Waiver is required to allow an intersection to be located 175 feet from another intersection where a 220-foot minimum distance separation is required. Staff does not support this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
01/16/02	The City Council approved a petition to annex 2.5 acres of property generally located at the intersection of Juliano Road and Hickam Avenue. The Planning Commission and staff recommended approval.

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01/12/06	The Planning Commission denied a request for a Rezoning (ZON-10495) from: U(Undeveloped) Zone [RE (Rural Estates) General Plan Designation] to R-PD2 (Residential Planned Development – 2 units per acre) on 2.50 acres at the Southeast corner of Juliano Road and Hickam Avenue. Staff Recommended denial. The applicant withdrew the request prior to being heard by City Council.
	The Planning Commission denied a request for a Variance (VAR-10496) to allow a proposed residential planned development on 2.50 acres where the minimum allowed is 5 acres at the Southeast corner of Juliano Road and Hickam Avenue. Staff Recommended denial. The applicant withdrew the request prior to being heard by City Council.
	The Planning Commission denied a request for a Waiver (WVR-10947) of Title 18.12 to allow 175 feet between centerline intersections where 220 feet is the minimum allowed on 2.50 acres at the Southeast corner of Juliano Road and Hickam Avenue. Staff Recommended denial. The applicant withdrew the request prior to being heard by City Council.
	The Planning Commission denied a request for a Site Development Plan Review (SDR-10494) for a five-lot residential subdivision on 2.50 acres at the Southeast corner of Juliano Road and Hickam Avenue. Staff Recommended denial. The applicant withdrew the request prior to being heard by City Council.
02/12/13	The Planning Commission voted to hold related items VAR-47839, VAR-47840, WVR-47976 and TMP-47838 in abeyance to the March 13, 2013 Planning Commission meeting at the request of the applicant.

Most Recent Change of Ownership

08/16/12	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

No related permits have been issued for this site.
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Pre-Application Meeting

12/13/12	Staff reviewed the requirements to subdivide this property into five separate parcels. It was noted that the proposed street does not meet code requirements, since it is only 40 feet wide and does not have sidewalks or streetlights. It was also noted that the lots are smaller than allowed and Lots 1 and 5 do not meet the minimum front yard setbacks. These will require Variance applications. A Tentative Map is also required.
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<i>Neighborhood Meeting</i>
No neighborhood meeting is required, nor was one held.

Field Check	
01/02/13	Staff visited the site and found an undeveloped lot that was clean and free of trash and debris. A large for sale sign has been erected.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.5

<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)	U (Undeveloped) [RE (Residential Estates) General Plan Designation]
North	Single Family Dwelling	RNP (Rural Neighborhood Preservation) - Clark County	R-E (Rural Estates Residential) – Clark County
South	Undeveloped	RNP (Rural Neighborhood Preservation)	U (Undeveloped) [RE (Residential Estates) General Plan Designation]
East	Undeveloped	RNP (Rural Neighborhood Preservation) - Clark County	R-E (Rural Estates Residential) – Clark County
West	Undeveloped	RNP (Rural Neighborhood Preservation) - Clark County	R-E (Rural Estates Residential) – 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>
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 19.06.060, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	15,260 SF	N
Min. Lot Width	100 Feet	85 Feet	N
Min. Setbacks			
• Front	30 Feet	28 Feet	N
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	15 Feet	Y
• Rear	35 Feet	35 Feet	Y
Max. Building Height	35 Feet	Unknown	By Condition
Mech. Equipment	Screened	Unknown	By Condition

<i>Existing Zoning</i>	<i>Permitted Density</i>	<i>Units Allowed</i>
R-E (Residence Estates)	2 units per acre	5
<i>General Plan</i>	<i>Permitted Density</i>	<i>Units Allowed</i>
RNP (Rural Neighborhood Preservation)	2 units per acre	5

Pursuant to Title 19.06.060, the following standards apply:

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Buffer Trees:				
• North	1 Tree / 30 Linear Feet	10 Trees	10 Trees	Y
• South	1 Tree / 0 Linear Feet	0 Trees	0 Trees	Y
• East	1 Tree / 0 Linear Feet	0 Trees	0 Trees	Y
• West	1 Tree / 30 Linear Feet	8 Trees	10 Trees	Y
TOTAL PERIMETER TREES		18 Trees	20 Trees	Y

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LANDSCAPE BUFFER WIDTHS			
Min. Zone Width			
• North	6 Feet	6 Feet	Y
• South	0 Feet	0 Feet	Y
• East	0 Feet	0 Feet	Y
• West	6 Feet	6 Feet	Y
Wall Height	6 to 8 Feet Adjacent to Residential	Not Indicated	By Code

19.04.040 Connectivity		
Transportation Network Element	# Links	# Nodes
Internal Street	1	0
Intersection – Internal	0	0
Cul-de-sac Terminus	0	1
Intersection – External Street or Stub Terminus	0	0
Intersection – Stub Terminus w/ Temporary Turn Around Easements	0	0
Non-Vehicular Path - Unrestricted	0	0
Total	1	1
	Required	Provided
Connectivity Ratio (Links / Nodes):	1.30	1.0*

*Not required in the R-E (Residence Estates) district; provided for informational purposes only.

Waivers		
Requirement	Request	Staff Recommendation
To have a minimum of 220 feet between street intersections.	To allow a minimum of 175 feet between street intersections.	Denial

ANALYSIS

This is a similar request for this site that was proposed in 2006. At that time, the proposed five-lot residential subdivision was denied by the Planning Commission and staff. The applicant chose to withdraw the project prior to it being heard by City Council. The conditions in the area have not changed substantially and the project still doesn't meet the minimum code standards required.

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The two Variance requests are needed due to the proposed fifth lot. The project could be designed within minimum code requirements if only four lots were proposed. The added fifth lot does not allow for the minimum lot size and lot widths to meet code requirements. The deviation from minimum lot size per code is nearly 25% smaller and is 15% smaller from minimum lot width requirements. There are no physical topography issues that would require a deviation from code requirements; therefore, these deviations are self-created and do not meet the requirements for relief via the variance process. Staff does not support these requests.

If there were no fifth lot proposed with the project a Waiver would not be required, since the private street would be considered a private driveway. However, as proposed, it is a private street that does not meet the minimum distance separation requirements from another intersection. The required Waiver to address this issue is not supported by staff. Furthermore, The Department of Public Works states, "That such a Waiver of public street standards may only be approved if the improvements are located behind a gated entrance per 19.04.070A. As no gate is proposed, we cannot support the proposed reduction in street requirements."

Although this project is not part of any Special Districts, it is an excepted area of the Inter Local Agreement. The Inter Local Agreement indicates that the maximum number of residential units per acre is two. This project is proposed at two dwelling units per acre, which is in compliance with the Inter Local Agreement.

The site plan as proposed does not reflect the intent of the R-E (Residence Estates) District, as it does not provide for homogeneity of land use patterns. The surrounding area has developed as larger lot, low-density-residential and this proposal would change the overall characteristic of the neighborhood. A redesign of the project with four lots would better meet the development factors in the area and could meet all minimum development standards. For these reasons, staff recommends denial. If approved, attached conditions are required to be met for this project.

FINDINGS (VAR-47839)

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."

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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 lots that do not meet the minimum code requirements. The project could be designed to code requirements by eliminating one lot. 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-47830)

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.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a private street that does not meet minimum design standards. Alternative is to meet the minimum design standards 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-47976)

The Unified Development Code Title 19 has recently been updated to include a Complete Street Design Standards section this project does not meet; therefore, staff recommends denial.

FINDINGS (TMP-47474)

All Title 19 zoning and technical requirements regarding tentative maps are satisfied. However, Staff recommends denial of the subject tentative map due to the required Variances and Waiver that are associated with the application.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 31

NOTICES MAILED 81

APPROVALS 0

PROTESTS 8