



City of Las Vegas

Agenda Item No.: 22.

**AGENDA SUMMARY PAGE - PLANNING
PLANNING COMMISSION MEETING OF: AUGUST 8, 2017**

DEPARTMENT: PLANNING

DIRECTOR: ROBERT SUMMERFIELD ACTING

☐ Consent ☒ Discussion

SUBJECT:

BEYANCA - VAR-70643 - MAJIA E. PUBLIC HEARING - APPLICANT: RAY GRABLE - OWNER: BARRY SCHULTZ for possible action on a request for a Variance TO ALLOW A FIVE-FOOT REAR YARD SETBACK WHERE 10 FEET IS REQUIRED FOR A PROPOSED ACCESSORY STRUCTURE (CLASS II [GARAGE] on 0.37 acres located at 4013 Tyler William Lane, PH 188-011-810-006), R-PD2 (Residential Planned Development - 2 Units per Acre) Zone, Ward 6 (PRJ 70586). NOTE: THIS ITEM IS IN WARD 5 (BARLOW). Staff recommends DENIAL.

P.C.: FINAL ACTION (Unless Appealed Within 10 Days)

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

8

City Council Meeting

0

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

8

City Council Meeting

0

RECOMMENDATION:

Staff recommends DENIAL, if approved, subject to conditions:

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photo(s)
5. Justification Letter
6. Protest/Support Comment Forms and Postcards
7. Submitted after Final Agenda Site Plan, Elevation and Floor Plan Date Stamped 05/31/2017
8. Submitted at Meeting Architectural Review Committee Application and Approval and New Addition Approval from 2006

Motion made by CEDRIC CREAR to Approve subject to conditions

Passed For: 5; Against: 2; Abstain: 0; Did Not Vote: 0; Excused: 0

DONNA TOUSSAINT, VICKI QUINN, TRINITY HAVEN SCHLOTTMAN, SAM CHERRY, CEDRIC CREAR; (Against-LOUIS DE SALVIO, CHRISTINA ROUSH); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

CHAIR SCHLOTTMAN declared the Public Hearing open.

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NICOLE EDDOWES, Planner II, reported that this item was held in abeyance from the 7/11/2017 Planning Commission meeting in order for the applicant to hold a neighborhood meeting. Since it was a voluntary meeting, staff was not in attendance. Staff found the requested Variance to allow a five-foot rear yard setback, where Title 19 requires a 10-foot rear yard setback, to be a self-imposed hardship and recommended denial of the application.

RAY GRABLE and BARRY SCHULTZ appeared before the Commission. MR. SCHULTZ stated that at the Commission's last meeting, he was directed to return with the approval of the homeowners association (HOA) which he had and submitted for the record. He pointed out that the back two pages of the document were the Neighbor Impact Form which all of his surrounding neighbors have signed approving that they do not have any challenges with the proposed project.

MR. SCHULTZ shared an approved set of plans from the City for a property near his dated August 15, 2006. He asked for the allowance of a five-foot variance to match what has already been in existence in the neighborhood. In 2006, when the neighbor submitted the plans, the Variance was less than three feet in the back and the side. MR. SCHULTZ'S five-foot Variance would only impact one neighbor which was the one neighbor who has spent time with REGAN ORR and sent an email to The Poughkeepsie Times. He immediately contacted the Board of Directors. He noted that there were two Board of Directors members present as well as a member of the Architectural Review Committee.

MR. ORR stated that there were no proposals for garages within their community and believed this was the first time for a public meeting where residents could voice their concerns. He was aware of the other buildings in the community but was not sure how they were built without community involvement. When this started in April, MR. ORR visited the Department of Building and Safety and asked staff for input about the community to which staff referenced the developers original request of no and on construction.

MR. ORR noted that the setbacks according to the community's Covenants, Conditions, and Restrictions (CC&Rs) are 30 feet on the rear and 10 feet on the side. In 2000, MR. ORR purchased within the community and read the CC&Rs and liked the size of the setbacks. He emphasized that all homeowners who purchase a home within the community must sign that they have received and understand the CC&Rs.

MR. ORR also discussed the conversation he had with MR. SCHULTZ, and stated that he does not have a petition against MR. SCHULTZ'S proposal but was against the other.

CHUCK KOEHLER, President of the Board of Directors of Rancho San Miguel, is an original homeowner within the Rancho San Miguel community who watched the July 11th meeting and believed some of the statements made may not have been accurate. He noted that the Board recognizes that the City supersedes anything the community desires to do. The community was originally designed for lots to be purchased; however, the developer had a problem with that and turned the community into tract homes. He clarified that the 30-foot setback starts from the front

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of the curb of the home. Five homes in the community have either built garages or garages/casitas ranging from 700 to 2,000 square feet. When these other homes expanded, it was pre-2011 when the code allowed for the building and is in compliance with City code. He explained the Board does not approve any of the additions as there is an Architectural Review Committee that the Board must abstain from influencing. He also believed the Board was made up of level-headed people and has now become involved because of the opposition.

GREG HALVERSON, member of the Architectural Review Committee of Rancho San Miguel, explained that residents must submit their paperwork to the Committee for review. Initially, MR. SCHULTZ wanted a bigger garage but was turned down. He acknowledged that there were several garages already built within and must conform to the rest of the neighborhood. He confirmed MR. SCHULTZ has been approved by the Architectural Review Committee.

TERRY HALVERSON, member of the Board of Directors of Rancho San Miguel, has been involved within the neighborhood since it was established and is an original homeowner. She approved of the project due to the fact there were five homes with garages and casitas in addition to others looking to add on. Everything has been approved by the City, and she asserted that when MR. ORR had a petition signed, he told his neighbors to believe some of the garages were not approved by the City. MS. HALVERSON stated that the neighborhood has been kept up, there is nothing unsightly within it and when homes go up for sale, they are sold quite quickly. She added that the original CCRs were amended in 1997.

JARED McGRATH was in charge of the site plan. He believed many residents plan to build, and he did not believe there was an issue.

MR. SCHULTZ reasoned that he moved into the neighborhood because he has an RV and many of the other neighborhoods do as well.

COMMISSIONER TOUSAINT thanked MR. GRABLE and MR. SCHULTZ for coming back and affirmed she would support the application.

MR. SCHULTZ told COMMISSIONER CREAR that five feet would suit his needs as he did not wish to rip up a tree with a lot of growth on it and was surprised that 10 feet was the requirement. He reiterated that the HOA and Architectural Review Committee were in compliance. MR. SCHULTZ wished to be able to build what the other residents have built.

COMMISSIONER CREAR asked if the other residents have come before the Commission for approval. MR. SCHULTZ stated that a variance was not required at the time that they built.

COMMISSIONER ROUSH asked for further clarification as to when and why the rules changed. PETER LOWENSTEIN, Planning Section Manager, explained that in 2011, the City adopted the Unified Development Code. At that time, the accessory structure section of the code for residential properties was amended from a three-foot side and rear yard setback and six-foot separation from a primary dwelling to a 10-foot separation from the side and rear yard setback of

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the property line on larger properties. This was because there was an additional opportunity for accessory structures to be larger and taller in scope. In relation to those abilities to go up and be larger, the additional setback would mitigate the impact of adjacent properties.

MR. SCHULTZ informed COMMISSIONER ROUSH that he owns the property, and MR. GRABLE would be building the garage and was the one who had submitted the application.

COMMISSIONER ROUSH recognized there were residents present in support and opposition and asserted that she was sensitive to CC&R issues because rules are enacted for a reason. She knows MR. SCHULTZ does not want to tear down a tree, but he is encroaching on his neighbors enjoyment, property, views and privacy. She did not feel she could support the application.

COMMISSIONER CHERRY acknowledged MR. SCHULTZ'S effort to meet with the neighbors, HOA and Architectural Review Committee. He would support the application.

CHAIR SCHLOTTMAN was opposed to the application previously; however, he could now support it after the Architectural Review Committee's approval and the change in the Unified Development Code. COMMISSIONER QUINN also expressed support.

CHAIR SCHLOTTMAN declared the Public Hearing closed.

