

**MINUTES
CITY OF NORTH LAS VEGAS
PLANNING COMMISSION**

August 26, 2009

BRIEFING: 5:30 P.M., Conference Room, North Las Vegas City Hall, 2200 Civic Center Drive

CALL TO ORDER: 6:03 P.M., Council Chambers, North Las Vegas City Hall, 2200 Civic Center Drive

ROLL CALL: Chairman Dean Leavitt - Present
Vice-Chairman Steve Brown - Present
Commissioner Jay Aston - Present
Commissioner Jo Cato - Present
Commissioner Dilip Trivedi - Present
Commissioner Laura Perkins - Present
Commissioner Joseph DePhillips - Present

STAFF PRESENT: Frank Fiori, P & Z Director
Marc Jordan, Planning Manager
Robert Eastman, Principal Planner
Nick Vaskov, Assistant City Attorney
Lorena Candelario, PW Real Property Mgmt.
Clete Kus, PW, Transportation Planner
Janice Carr, Fire Department
Jose Rodriguez, Police Department
Ernie Buo, Utilities
Jo Ann Lawrence, Recording Secretary

WELCOME: Chairman Dean Leavitt

VERIFICATION: Jo Ann Lawrence, Recording Secretary

PLEDGE OF ALLEGIANCE: Commissioner Jo Cato

PUBLIC FORUM

There was no public participation.

PRESENTATION

Presentation of plaques to outgoing Commissioners Harry Shull and Angelo Carvalho for their years of service on the Planning Commission. **(Continued to September 9, 2009)**

MINUTES

- **APPROVAL OF THE MINUTES FOR THE PLANNING COMMISSION MEETING OF JULY 22, 2009.**

ACTION: APPROVED

MOTION: Commissioner Trivedi

SECOND: Commissioner Cato

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 6 was heard next.

NEW BUSINESS

1. **VN-16-09 (39486) AAEQ RECYCLING CENTER (PUBLIC HEARING). AN APPLICATION SUBMITTED BY AAEQ MANUFACTURERS AND RECYCLERS ON BEHALF OF BBMR INVESTMENT, L.L.C., PROPERTY OWNER, FOR A VARIANCE IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO ALLOW A 16 FOOT HIGH SCREEN WALL WHERE 12 FEET IS THE MAXIMUM HEIGHT ALLOWED. THE PROPERTY IS LOCATED AT 2580 NORTH COMMERCE STREET. THE ASSESSOR'S PARCEL NUMBERS ARE 139-15-701-003 AND 139-15-801-001.**

Item Nos. 1 and 2 were presented together.

The application was presented by Marc Jordan, Planning Manager who explained the Commission had previously approved a use permit that would allow some expansion or work to the existing recycling center. The approval was to allow the applicant to add to an additional eight feet of facade type material to an existing eight foot high wall, which would resemble the existing building. On the inside of the wall, they were going to build a canopy structure that would be used for shade for the employees. It was proposed as a way to help screen the recycling wall from the residential to the west and also to help reduce the noise associated with the recycling process. Since that approval, the applicant was in the building permit process and decided they did not want to put in the canopy portion to the existing wall. Item No. 2 was a request to amend or delete Condition No. 3, which would remove the canopy condition and how the canopy was fastened to the wall. As a result of the removal of the canopy, the wall was no longer part of the canopy and would be a single wall and the maximum height of the wall was 12 feet. The applicant wanted to follow through with what was promised to the neighbors so was requesting to be allowed to build a 16 foot high wall, which was the reason for the variance request. Staff was recommending approval of VN-16-09 and UN-76-08.

Staff was recommending approval of VN-16-09 with the following conditions:

1. That, unless expressly authorized through a variance, waiver or another approved method, this development shall comply with all applicable codes and ordinances;
2. The maximum wall height shall not exceed 16 feet as shown on submitted elevations.

Mindy Wadkins, 2580 North Commerce Street, North Las Vegas, NV appeared on behalf of the applicant indicating she concurred with Staff recommendation.

Chairman Dean Leavitt opened the Public Hearing. The following participant came forward:

- **Joe Neal, 304 Lance Avenue, North Las Vegas, NV 89030** was concerned about the noise level from the recycling facility and wanted assurance the noise levels would not increase. He also pointed out Commerce Street was not designed for large trucks.

Chairman Leavitt closed the Public Hearing.

Ms. Wadkins explained they met with the residents and Ms. Thomas was a key contact for the neighborhood and lived across Commerce Street from the facility and they had numerous meetings with Ms. Thomas, the neighbors and Councilman Robinson. During that time, it was learned the neighbors were concerned about the noise and the facade would drastically reduce the noise associated with the recycling facility.

Chairman Leavitt felt the applicant was attempting to accommodate the existing neighbors.

Ms. Wadkins felt the facade and 16 foot wall would decrease the noise level and explained there had been no change to the operation and they had changed some of the time frames when certain operations were performed.

Chairman Leavitt asked Ms. Wadkins, since there were four schools in the vicinity, if they were attempting to make sure the large trucks were not blocking Commerce Street during the hours children were going to and from school.

Ms. Wadkins responded by explaining three years ago when the scrap metal yard was put in, it was realized the loading and unloading pattern needed to be changed. In 2008, part of the use permit was to relocate the scale and change the truck traffic pattern on the site. She also indicated trucks did not have to pull onto Commerce Street to unload. There was currently a parking agreement with the City of North Las Vegas which allowed employees to park in the Kiel Ranch parking lot.

Commissioner Laura Perkins disclosed she was employed by the regulatory agency who regulated recycling centers, but it would not affect her vote.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Aston

SECOND: Vice-Chairman Brown

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

2. UN-76-08 (39485) AAEQ RECYCLING CENTER (PUBLIC HEARING). AN APPLICATION SUBMITTED BY THE AAEQ MANUFACTURERS AND RECYCLERS ON BEHALF OF BBMR INVESTMENT, L.L.C., PROPERTY OWNER, TO AMEND A PREVIOUSLY APPROVED SPECIAL USE PERMIT IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO ALLOW A SALVAGE CENTER. THE PROPERTY IS LOCATED AT 2580 NORTH COMMERCE STREET. THE ASSESSOR'S PARCEL NUMBERS ARE 139-15-701-003 AND 139-15-801-001.

All comments and discussion from Item No. 1, VN-16-09 was carried forward as follows:

Item Nos. 1 and 2 were presented together.

The application was presented by Marc Jordan, Planning Manager who explained the Commission had previously approved a use permit that would allow some expansion or work to the existing recycling center. The approval was to allow the applicant to add to an additional eight feet of facade type material to an existing eight foot high wall, which would resemble the existing building. On the inside of the wall, they were going to build a canopy structure that would be used for shade for the employees. It was proposed as a way to help screen the recycling wall from the residential to the west and also to help reduce the noise associated with the recycling process. Since that approval, the applicant was in the building permit process and decided they did not want to put in the canopy portion to the existing wall. Item No. 2 was a request to amend or delete Condition No. 3, which would remove the canopy condition and how the canopy was fastened to the wall. As a result of the removal of the canopy, the wall was no longer part of the canopy and would be a single wall and the maximum height of the wall was 12 feet. The applicant wanted to follow through with what was promised to the neighbors so was requesting to be allowed to build a 16 foot high wall, which was the reason for the variance request. Staff was recommending approval of VN-16-09 and UN-76-08.

Staff was recommending approval of UN-76-08 with the following conditions:

1. That, unless expressly authorized through a variance, waiver or another approved method, this development shall comply with all applicable codes and ordinances.
2. That UN-76-08 is site-specific and non-transferable.
3. The decorative "metal color panels with aluminum trim" (identified on the submitted elevations) shall be provided along the entire 16-foot wall at 20 feet on-centers.
4. The existing CMU block wall shall be painted to match the new metal structure.
5. The design of the new 16-foot structure is allowed to match the existing metal building on the site, with the exceptions listed herein.

6. Shrubs shall be added to the existing landscape areas along Commerce Street such that the overall plant types, sizes and quantities shall provide a minimum 80% coverage within two years of final inspection. Landscape and irrigation plans shall be included as part of the building permit application packet for the new structure and/or the re-location of the scales.
7. The Building Safety Division's final inspection of the new structure shall not take place until after the Planning & Zoning Department has reviewed and approved the installation of all required landscaping and irrigation.
8. Existing masonry screen wall might not be sufficient to support proposed canopy. Complete structural analysis and design to check adequacy of the existing block screen wall due to additional lateral and vertical loads from canopy need to be submitted during permit submittal process at the Building Safety Division.
9. A parking study must be submitted for review/approval.
10. An auto turn analysis must be submitted which demonstrates that a WB-50 vehicle can maneuver into the proposed driveway.
11. Drive aisle between scale and parking must be a minimum of 20' wide.

Mindy Wadkins, 2580 North Commerce Street, North Las Vegas, NV appeared on behalf of the applicant indicating she concurred with Staff recommendation.

Chairman Dean Leavitt opened the Public Hearing. The following participant came forward:

- **Joe Neal, 304 Lance Avenue, North Las Vegas, NV 89030** was concerned about the noise level from the recycling facility and wanted assurance the noise levels would not increase. He also pointed out Commerce Street was not designed for large trucks.

Chairman Leavitt closed the Public Hearing.

Ms. Wadkins explained they met with the residents and Ms. Thomas was a key contact for the neighborhood and lived across Commerce Street from the facility and they had numerous meetings with Ms. Thomas, the neighbors and Councilman Robinson. During that time, it was learned the neighbors were concerned about the noise and the facade would drastically reduce the noise associated with the recycling facility.

Chairman Leavitt felt the applicant was attempting to accommodate the existing neighbors.

Ms. Wadkins felt the facade and 16 foot wall would decrease the noise level and explained there had been no change to the operation and they had changed some of the time frames when certain operations were performed.

Chairman Leavitt asked Ms. Wadkins, since there were four schools in the vicinity, if they were attempting to make sure the large trucks were not blocking Commerce Street during the hours children were going to and from school.

Ms. Wadkins responded by explaining three years ago when the scrap metal yard was put in, it was realized the loading and unloading pattern needed to be changed. In 2008, part of the use permit was to relocate the scale and change the truck traffic pattern on the site. She also indicated trucks did not have to pull onto Commerce Street to unload. There was currently a parking agreement with the City of North Las Vegas which allowed employees to park in the Kiel Ranch parking lot.

Commissioner Laura Perkins disclosed she was employed by the regulatory agency who regulated recycling centers, but it would not affect her vote.

Chairman Leavitt asked the applicant if there was any additional information.

Chairman Dean Leavitt opened the Public Hearing. There was no additional public participation. Previous Public Hearing comments by Mr. Neal were included above.

Chairman Leavitt closed the Public Hearing.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Aston

SECOND: Vice-Chairman Brown

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

3. **SPR-11-09 (39416) SLOAN & STEPHEN. AN APPLICATION SUBMITTED BY WILLIAMS LILL HOLDINGS L.P., PROPERTY OWNER, FOR A SITE PLAN REVIEW IN AN M-2, GENERAL INDUSTRIAL DISTRICT FOR A WAIVER FROM THE INDUSTRIAL DEVELOPMENT DESIGN STANDARDS TO ALLOW A TEN (10) FOOT PERIMETER LANDSCAPE AREA ALONG STEPHEN AVENUE WHERE 20 FEET IS THE MINIMUM REQUIRED FOR A PROPOSED TRUCKING FACILITY. THE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF SLOAN LANE AND STEPHEN AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 123-34-101-002.**

Item Nos. 3 and 4 were presented together.

The application was presented by Marc Jordan, Planning Manager who explained when the proposed site was annexed into the City, the applicant's client already had entitlements approved through Clark County for a trucking facility and office warehouse proposed on the site. In addition, also approved was six feet of landscaping along the southerly property line, along Stephen Avenue and were also approved to use chain link fencing on all three sides, with the exception of Sloan Lane. The City, as part of the annexation agreement, agreed to accept the entitlements. Secondary emergency access to the property was required, so the applicant was required to put in Stephen Avenue, which required 20 feet of landscaping versus six feet; therefore, the applicant was requesting a waiver of the Industrial Design Standards. Staff was supporting both requests, as it was consistent with entitlements granted through Clark County. Item No. 4, WAV-06-09, was a request to waive the sidewalk requirements along Stephen Avenue, but it dead ended into a cul-de-sac and did not provide pedestrian access to the east, Staff was not requiring the sidewalk and Public Works was supportive of that request. Staff was recommending approval of SPR-11-09 with the following conditions:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. The development shall comply with the Industrial Design Guidelines with the following exceptions.
 - a. A ten (10) foot wide perimeter landscaping area must be provided along the frontage of Stephen Lane.
 - b. Chain link fence is allowed behind the required perimeter landscape area for portions along Stephen Lane as depicted on the site plan.
3. A restrictive covenant running with the land for sanitary sewer service must be signed.

Chairman Dean Leavitt recognized Assistant City Manager Maryann Ustick.

Richard Gallegos, 3005 West Horizon Ridge Parkway, Las Vegas, NV appeared on behalf of the applicant indicating he concurred with Staff recommendation.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Aston

SECOND: Commissioner Cato

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

4. WAV-06-09 (39419) SLOAN & STEPHEN. AN APPLICATION SUBMITTED BY WILLIAMS LILL HOLDINGS L.P., PROPERTY OWNER, FOR A WAIVER IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO WAIVE THE SIDEWALK REQUIRED BY TITLE 16 ALONG STEPHEN AVENUE. THE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF SLOAN LANE AND STEPHEN AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 123-34-101-002.

All comments and discussion from Item No. 3, SPR-11-09 was carried forward as follows:

Item Nos. 3 and 4 were presented together.

The application was presented by Marc Jordan, Planning Manager who explained when the proposed site was annexed into the City, the applicant's client already had entitlements approved through Clark County for a trucking facility and office warehouse proposed on the site. In addition, also approved was six feet of landscaping along the southerly property line, along Stephen Avenue and were also approved to use chain link fencing on all three sides, with the exception of Sloan Lane. The City, as part of the annexation agreement, agreed to accept the entitlements. Secondary emergency access to the property was required, so the applicant was required to put in Stephen Avenue, which required 20 feet of landscaping versus six feet; therefore, the applicant was requesting a waiver of the Industrial Design Standards. Staff was supporting both requests, as it was consistent with entitlements granted through Clark County. Item No. 4, WAV-06-09, was a request to waive the sidewalk requirements along Stephen Avenue, but it dead ended into a cul-de-sac and did not provide pedestrian access to the east, Staff was not requiring the sidewalk and Public Works was supportive of that request.

Staff was recommending approval of WAV-06-09 with the following conditions:

1. A revocable encroachment permit for landscaping within the public right-of-way is required.

Chairman Dean Leavitt recognized Assistant City Manager Maryann Ustick.

Richard Gallegos, 3005 West Horizon Ridge Parkway, Las Vegas, NV appeared on behalf of the applicant indicating he concurred with Staff recommendation.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS;
FORWARDED TO CITY COUNCIL FOR FINAL CONSIDERATION

MOTION: Commissioner Aston

SECOND: Commissioner Cato

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

5. **ZOA-06-09 (39384) CNLV APEX OVERLAY DISTRICT (PUBLIC HEARING). AN APPLICATION SUBMITTED BY THE CITY OF NORTH LAS VEGAS TO AMEND TITLE 17 (ZONING ORDINANCE), ADDING A NEW SECTION 17.20.240 CREATING AN I-A (INDUSTRIAL APEX) OVERLAY DISTRICT; PROVIDING DEVELOPMENT STANDARDS AND DESIGN GUIDELINES FOR DEVELOPMENT WITHIN THE DISTRICT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.**

The application was presented by Johanna Murphy, Planning Manager giving some background on the Apex area. In 1988, there was an explosion of an industrial plant in Henderson, known as PEPCON, and after that explosion, there was much concern about having certain types of industrial development located in close proximity of major population areas. As a response to those safety concerns, in 1989 there was the Apex Project, Nevada Land Transfer and Authorization Act which allowed Clark County to purchase lands from BLM specifically for industrial development. The County then zoned the lands M-2, Heavy Industrial, and in 2008, the City of North Las Vegas annexed 11,000 plus acres of the Apex area and also classified it with an M-2 zoning. Due to the unique nature of the area, the City decided to create an overlay district specifically for Apex. The City contracted with Clarion and Associates to help develop an ordinance and during the process, the City held three stakeholder meetings and one work session with the Planning Commission and met twice with City Council to receive direction for the Apex Overlay District. The ordinance contains development standards, design guidelines and a list of appropriate land uses. The Overlay District divides Apex into two sub-areas, one area is known as LOOA, which is the Live Ordinance Overflight Area and the other is Other Areas, which is everything outside of the LOOA. When determining what types of land uses would be appropriate in the Apex area, the City met with representatives from Apex and also Nellis Air Force Base. There were a lot of negotiations and discussions and there were several major factors considered as every individual land use was reviewed. Some major factors were, whether the use was primarily industrial in nature, also what were the operations of Nellis, since a large portion of Apex fell under the overflight area, and the location of apex, as it had a rural setting and was located a great distance from the City's core and much of the existing residential. It was also taken into consideration the types of accessory uses needed in an industrial development and also what types of support uses the workforce would require. Table 1 in the ordinance lists all of the appropriate land use types, which were: Principally Permitted, Special Use, Conditional Use, or Accessory Uses. Residential uses would not be permitted in the Apex area. Because the area was so unique, the City specifically tailored development standards and design guidelines for the Apex area. Some of the items making the area unique were the distance to the City core, but also large portions of the area were not visible from the public right-of-ways, so a criteria was established for the development standards and design guidelines based on whether the site was more or less visible from the public right-of-ways. It was determined that more visible sites were those located within 500 feet of I-15, US 93 or Las Vegas

Boulevard and then sites located further than 500 feet from those right-of-ways were considered less visible. Safety was kept in mind when developing the Overlay District, as it had originally started with the safety concerns of the PEPCON explosion. In discussions with Nellis and trying to get a full understanding of their operations, it was determined that there should be occupancy restrictions within the LOOA and it was determined an appropriate restriction would be 50 persons per acre at anytime within the LOOA, which was to avoid large concentrations of people in any one area.

Chairman Dean Leavitt opened the Public Hearing. The following participants came forward:

- **Deborah MacNeill, Director of Public Partnerships, Nellis Air Force Base, Las Vegas, NV 89191** appeared on behalf of Colonel Belote, the Installation Commander, thanking City Staff, Council and Commissioners for working with the Air Force on the development of the Apex Overlay District. She explained the planes almost exclusively took off to the north, which was a self-restriction instituted by Nellis due to the population densities to the south of the Base. That decision was made to keep the public as safe as possible. She stated they fly with approximately 3.6 million pounds of ordnance a year, which was approximately 75 percent of what the Air Force drops in the United States in training. She showed a map of the area and explained the different areas and pointed out, the training performed by Nellis could not be done anywhere else in the world. When the decision was made by Congress years ago, to put the Apex lands and sell them from BLM, it was due to the PEPCON explosion and Congress specifically in that law expressly said the land must be compatibly developed with Nellis Air Force Base and their mission so they were not impacted and then subsequent to that, BLM withheld some right-of-ways and patents. Ms. MacNeill stated Nellis felt the point of the Overlay District was to master plan the area as to what was compatible with uses already in the area. She stated Nellis overflew the entire Apex area, but the primary departure service was where they took off with the ordinance and the goal was to not come back with it, but it did happen. It was felt it was important that the history and legislation be referenced in the Overlay District, which was one of the first requests, so that in the years to come, to anybody looking at the Ordinance, it would be very clear what was done and why it was done. It was the concern of Nellis Air Force Base that it be known that everybody was kept aware of the most dangerous areas and develop accordingly, with everyone playing by the same rules. They would like to see the Overlay District be modified by the Planning Commission and City Council if, as they proceed, it was determined new uses should be added, and then they be added to the Overlay via change to the Overlay District and to

have the Overlay be the governing document so that as the City proceeds with development agreements for specific properties within the greater Apex area, they were not contrary to what was already agreed to in the land use restrictions. There was a lot of permitted uses that were not part of what was permitted in the County and there were a lot of uses that were previously special uses and were now proposed to be permitted uses. Nellis was comfortable with that, provided the restrictions were there. They did not want a building or something constructed and it be discovered, after the fact, that it had a mission impact and now the Air Force was put in a position of having to injunct or the Department of Justice having to sue. Nellis wanted to be a good neighbor and wanted to see compatible development, but did not want a tragic airplane accident or ordnance falling off and realizing it could have been prevented.

- **Kevin Higgins, 10100 West Charleston #200, Las Vegas, NV 89135** was opposed to the Apex Overlay District. He was an owner of property in the Speedway area. He understood Apex was due to the PEPCON explosion and was to be used to shield the valley. There would be a different set of rules for the developers in Apex from the developers in other industrial areas of North Las Vegas and almost put the City in partnership with apex by allowing all of the requested waivers of setback, special use permits, off-sites, landscaping, fencing, etc. He understood Title 17 was supposed to take place for the entire industrialized area of North Las Vegas and instead of putting Apex on a pedestal, because for the past 20 years things did not go well for the owners in the County and then by going into the City, and changing the rules, was to the detriment of people who already own property in other areas of the City and felt that should be taken into consideration. Mr. Higgins requested that the application be held until the City could complete the entire Title 17 re-write for the industrial and commercial properties within North Las Vegas, which would not put an adverse disadvantage to the current property owners of the Apex area, as they could apply waivers.
- **Brian Lee, 9960 West Cheyenne Avenue #210, Las Vegas, NV 89129** appeared on behalf of a group who owned property under the name of Apex 93 LLC. He stated they were not invited to any stakeholder meetings and learned about the meeting from another property owner. He was concerned about the size of restaurants and office space in the LOOA. He did not know why or how the size limitations were reached and why only part of Apex was affected by the live ordnance overlay, but the property he was representing was affected by it. He did not feel public policy should be based on the economic climate and if other areas of the City wanted waivers, they could also apply for them.
- **John Ramous, 3111 South Valley View Boulevard, Las Vegas, NV 89102** appeared on behalf of NAIOP, who was supportive of the opportunity for North Las Vegas, but felt there may be a timing issue and felt the application should be held until the Title 17 re-write was completed.

- **George Garcia, 1711 Whitney Mesa Drive, Suite 100, Henderson, NV 89014** appeared along with **Mason Harvey, 5550 Painted Mirage Road, Suite 140, Las Vegas, NV 89149** who appeared on behalf of Apex 385, Apex 27, Apex 53, and other owners in and around the park and various locations. Mr. Garcia did not object to NAIOP's request to continue to the application, He did not believe the ordinance was ready for approval in its current state, as there were issues that still needed to be resolved. He indicated he was contacted by Jerry Smith who owned property in Apex and was not aware of the process. The primary concern was with the LOOA designation. They recognize Nellis' importance to the community, to the nation and the mission they have, but there is an issue of the amount of land and there was need for development and property ownership rights and balancing all of that was a huge task. The current balance created some severe problems for his clients in the LOOA. He understood the concern of live ordnance, but the reality was he was not aware of anything that had fallen in the Apex area that had caused an explosion or anything else. In fact, live ordnance, as he understood it, was not armed, therefore, it could fall and would not explode. The biggest potential, if there was something likely to explode, was the plane itself. If a bomb were to fall, it would not fall straight down, it could fall as much as four miles from the drop. Live ordnance or a plane crash was not confined to the boundaries of the Apex area. All of Apex was covered by aircraft and flight tracks from Nellis, so their concern was, by taking the map and creating a boundary that was LOOA, or has any association specifically designated for live ordnance, was going to detrimentally impact the property by the district and the designation of the map, and create a stigma that detrimentally impacted the property. He suggested removing the LOOA designation and remove all references to the live ordnance. They were not opposed to overflights and were not trying to limit them and did not feel they were detrimental and felt all of Apex should be treated equally. As long as someone met the 50 persons per acre, that threshold determined what was safe within all of Apex. He felt the LOOA created unnecessary, inappropriate and detrimental impacts. There should be uniform occupancy restrictions, eliminate the distinction in the land use table that there was an inside and outside of the LOOA, as long as the 50 person per acre requirement was demonstrated, which would include a large parcel being allowed to average the population density across the entire acreage. He requested that the density be the constraining factor for the entire ordinance. He felt the buffer for the screening of outdoor storage yards should be 500 feet instead of 1200 and be limited to the most visible areas. The building height was currently set at 60 feet and Mr. Garcia felt it should be 100 feet. Nellis was going to provide some additional information and he requested that information to complete discussions with Nellis on being allowed a building height of 100 feet without having to go through the FAA and through Nellis for additional review.

- **Bob Gronauer, Kaempfer Crowell Renshaw Gronauer & Fiorentino, 3800 Howard Hughes Parkway, 7th Floor, Las Vegas, NV 89169** appeared on behalf of Kapex and Apex Holdings thanking Staff for their work on the Overlay District and acknowledging there had been numerous meeting with Nellis and Staff. He stated for the record that Staff, even at the management level, had been in many meetings with respect to the Apex area and the types of uses, design standards, development guidelines, etc. and disagreed with comments made that there had not been enough time to review documents and there had not been enough workshops. He was not here because Apex Holdings and Kapex said they want an overlay District. A few years ago the City of North Las Vegas, as part of their vision, said they wanted to annex Apex into the City to help the economic situation and would create an economic boom and it would be developed pursuant to the development standards that was compatible to Nellis Air Force Base and would make sure there was no residential development. It was thought the property could not be annexed into the City due to the complexities of the infrastructure, water issues, sewer, roads, etc. There were other complexities and other agreements, and hundred of property owners and in order to make it work, they had to get organized and put together a plan and work with the City. There were three conditions put on annexing the property into the City, which meant a development agreement, an overlay district and a Special Improvement District (SID) were required. The hurdle for the City was to get services to Apex. He wanted it to be clear that the proposed zoning amendment was not being pushed by Apex and Kapex, but was due to the vision of the City and should not be continued. There was competition, which was evident from comments made regarding the application. If the other industrial areas were unhappy with their development, they could join the proposed overlay district, but they probably would not want to be included, as the document has restrictions that other industrial areas do not have to adhere to. With respect to the process, there were a couple of routes that could be taken, The property owners could join the Apex Develop Agreement or apply for a waiver of Development Standards or a variance. If a waiver was not wanted, they could ask to change an ordinance. It was important to approve the ordinance amendment to pursue the vision of the City for the Apex area. All issues had been dealt with and public hearings held before Council and he requested the ordinance be approved.

Chairman Dean Leavitt stated comments had been heard in support and opposition to the application and Staff had recommended approval, but it was the Commission's decision. He asked to hear from the Board and commented the last time the ordinance amendment was presented to the Commission was in January, 2009.

Commissioner Jay Aston asked to hear Staff's response to comments made in the Public Hearing.

Frank Fiori, Planning and Zoning Director responded the ordinance amendment had been worked on for many months in terms of the overlay district. Staff had met with stakeholders, who were thought to be the Focus Group, similar to what was in place for the Title 17 re-write. It was thought the process would go faster than it had and was initially anticipated to take four to six months. Staff has worked with all sides involved and he did not know if all sides would ever be able to be completely happy with all components of the overlay district because the interests were so varied. The Air Force had a very distinct and different interest than the property holders and land owners who were interested in developing and also the interest that the City Council had provided and the direction given to Staff in terms of the area being able to develop in the future and the unique nature of it.

Chairman Leavitt asked the time line on the re-write of Title 17.

Robert Eastman, Principal Planner responded the third module of the Title 17 re-write would be delivered to Staff in September for review and then sent back to the consultant with comments in approximately one month, then the consultant would make necessary edits and changes to comply with requirements given to them by Planning, Public Works and Legal Staff. Then, the second draft with the revisions would be given back to the City, which would then be presented to the Focus Group, the home builders, the commercial builders and then City Council and from comments made by those groups, another revision would be done. After the third module was complete, all three modules would be combined for a final document. The estimated time line for the final draft was approximately six months.

Commissioner Aston clarified it was Staff's desire to move forward with the proposed application.

Director Fiori responded it was Staff's position to move forward. He explained when they came to a point, when they could not agree with affected or interested parties, they went to City Council for more specific direction so they could move forward. Many issues brought up at the current meeting, had been raised during work sessions with City Council and no indication was given at that time that City Council wanted Staff to pull back and stop moving forward with the proposed document.

Commissioner Aston asked if there had been meetings or communication with Nellis Air Force Base.

Director Fiori responded there had been constant contact with Nellis Air Force Base regarding the proposed ordinance.

Commissioner Aston understood this was the final draft.

Director Fiori stated there were issues, such as the overflight area, the extent of the overflight area and he thought for the most part, uses had been worked out. The development standards themselves and the difference between what was being incorporated into the proposed document as an overlay for the Apex area, which was noted, is a unique rural area compared to the requirements in the current Title 17. He explained the proposed ordinance was modeled for the Apex area and for the type of development that was foreseen for that area.

Commissioner Aston asked if there was any reason for the proposed ordinance to be delayed until the Title 17 re-write was complete.

Director Fiori responded he did not believe it should be delayed, as the ordinance would ultimately be part of Title 17 and the issues that were raised regarding this ordinance would be reviewed with Module 3 of the Title 17 re-write within the next few weeks and would include the development standards for all of the zones, including industrial and commercial. Many of the people on the Focus Group represented some of the same interests as those who were in attendance at this meeting and provided comment, and they would have an opportunity to review it and Staff was more than willing to look at the standards to see if there were some modifications that could be made, that would be discussed later.

Commissioner Joseph DePhillips asked how much the re-write of Title 17 would affect the proposed ordinance.

Director Fiori responded the Title 17 re-write would not affect the proposed ordinance, explaining the ordinance would be incorporated into Title 17 as one portion. There were other standards, both development standards and design standards within Title 17 that apply to residential development, multi-family development, commercial development and industrial development and they would be reviewed in the re-write and the interest expressed tonight was in regards to the standards for industrial development. He explained the direction for many years, in terms of develop standards and design guidelines was, to try to hold the line and get as high a quality of development as possible within the City of North Las Vegas.

Commissioner Jo Cato asked for more explanation on the overflight area and asked if the proposed ordinance was approved, if during the re-write of Title 17, changes could be made to the overlay district ordinance.

Director Fiori responded if the ordinance were adopted, it would not be modified within the next couple of months, but the possibility always existed. Regarding the designated overlay area, when the City started to develop the Apex Overlay District and in discussions

with Nellis Air Force Base, their concerns were for safety, for the air space, and for the area under it where their aircraft fly. Nellis provided data and there was currently an adopted AQ's, a study which has been done and adopted by Council in 1995, with every military installation, there are certain safety zones. There are clear zones and accident potential zones. Nellis has a Clear Zone and an Accident Potential Zone One and Accident Potential Zone Two, which range out from the end of the run-way and then stop under the currently adopted AQ's. Nellis did not feel that was sufficient to cover the safety concerns they had and they provided data showing where their departing flights carrying live ordnance primarily go and in discussions with them, they proposed the overflight area, which is a corridor that takes in approximately 90 percent or more of the flights that go out through that corridor. It was agreed, that it did impact some property owners more than others, but it was agreed that was the area that would be looked at and designated. In regards to the point raised by Mr. Garcia, in terms of calling it a live ordnance overflight area, it could be called anything and it did not need those terms in there. If the thought was that it would be detrimental to being able to finance or insure a property, it could simply be called something else. There had been discussions on several occasions with representatives from Nellis Air Force Base regarding whether the zone could be shifted or moved a few degrees. He understood Mr. Harvey had that discussion with Nellis, but did not believe Nellis had considered moving it at this point, because they believed that was the zone needed for development in a less dense form.

Commissioner Laura Perkins felt if she was purchasing property, she would want to know about the LOOA before hand. She felt comfortable approving the ordinance, as she agreed they needed to be transparent and with the ordinance, it was transparent and everybody was aware of what they were getting into

Commissioner Dilip Trivedi stated when the first draft was presented to the Commission in January, he had asked if it would be brought back to the Commission and was informed he would have several opportunities to review it and now the final draft was being presented. A sizable chunk of property was being added to the City, yet no effort was being made to make it green. There was no mention of increasing the building energy efficiency in the overlay district ordinance or any mention of water efficiency and there were no restrictions on what type of plumbing fixtures could be used and no mention of storm water management or run-off from the site before and after development or harvesting rain water. There was no mention of solar orientation or re-use of recycled materials and he suggested having another workshop to go over some of those issues.

Commissioner Steve Brown agreed with Commissioner Trivedi that all aspects of conserving resources should be included and asked if that would go in the overlay or Title 17 and asked if the overlay district would override Title 17 or be added to it.

Director Fiori explained anything that was covered in the overlay and included in the overlay district would override those same items in Title 17 for the Apex area. It was requested as part of the Title 17 update that green concepts be included in the ordinance, so were expecting to have a component that would address some of the green concepts and because they are outside of the overlay, would pertain to all development within the City, not just the development in Apex/Kapex. Also, some of the things being encouraged in Apex/Kapex for development purposes, were alternative energy uses and were hoping that the area would be used for solar and other things. There were some real issues with some of the uses with Nellis Air Force Base in regards to glare and wind turbines and radar and flight interference, so it made it a little more problematic for some of those things to be developed. Some other things being addressed were in the Apex overlay area. There was an attempt to conserve water by reducing the amount of landscaping that was required encouraging that landscaping be of a type that did not need to be irrigated after one year of being established. They would like to see the building done around the natural landscaping. In terms of the drainage, instead of having more pavement, there were different street sections that would be permitted with gravel shoulders rather than paved shoulders and in terms of water usage, originally there was language in the overlay that precluded water intensive uses or water intensive uses may be required either a special use or something of that nature, but because of the way water was being handled in that area, through the development agreement or interlocal contracts, water usage was being restricted to a designated number of acre feet per acre of property developed, which meant if you had a use that required a lot of water, you would have to purchase more property in order to get the water rights.

Nick Vaskov, Acting City Attorney stated Staff had been very progressive in looking into green concepts and how to incorporate them into the general development code. Those were policy questions that definitely need to be addressed and answered going forward and were done in the larger context of development as a whole throughout the City and not just in any one particular area.

Director Fiori stated plumbing fixtures and those types of items were not normally incorporated in Title 17 and if the City wanted to move forward in those areas, it would be done in the Building Code or Title 15. Also, currently and for approximately the past two years, the valley has been looking at new guidelines for the quantity of water run off and also the quality of the water run off in order to meet EPA and State regulations. There is a staff working group who is working with a group of interested individuals and stakeholders in developing standards for the City to use.

Vice-Chairman Brown also asked if there was a means to change to overlay like there was to change Title 17.

Director Fiori responded it could be changed by using the same process used when amending Title 17.

Vice-Chairman Brown asked if there was a disadvantage to waiting to approve the overlay district and if it would be helpful to hold workshops to discuss the issues further.

Acting City Attorney Vaskov responded by explaining the City was currently working with property owners on allowing development to occur, whether that was through the traditional development process or through development agreements that might be negotiated with them, which did not mean that would prevent the Commission from continuing the application or having additional workshops, but he felt Staff was of the opinion they were at the point where the issues had been worked through enough that they were at a point with most of the property owners and interested people involved, that what was being presented was the best that could be done, considering the varied interests. A lot of differing goals had been met and a lot of compromises had been made that met a lot of various interests, so no matter what was done, and how long the application was continued, it was not felt a substantially different product would be obtained from what was being presented, unless the people who made the final decision, which was City Council, directed Staff to make changes.

Vice-Chairman Brown asked if changing the wording for the LOOA could be included in the motion for approval.

Acting City Attorney Vaskov responded it could be considered if it was something the Commission wanted to make expressly clear in terms of a motion.

Vice-Chairman Brown asked Debra MacNeill of Nellis Air Force Base if when establishing the 50 foot height restrictions, they considered the fact that they must have the least impact on industrial uses when impacting the right-of-ways as stated in the Public Law document distributed to the Commission.

Ms. MacNeill responded height was about three things, an actual obstruction to the aircraft when they build the approach departures off a runway, it was very precise and Nellis actions impact McCarran and North Las Vegas because of air traffic controls, but because the terrain rises so rapidly and you have to have clearances, they are much lower, even at Apex, than you would realize, so the FAA requires most time for you to file and then they will issue a determination of whether it was a hazard to air navigation and they were asking that they also get that notification. Secondly, even if it was not an obstruction, because it let everyone know it was not going to cause a change to an approach departure and they make sure it is marked. When the FAA is notified, then they notify all airports and all of the charts are updated for the pilot, so even a commercial airline would know a building existed. The third thing on the height, was even assuming both of those were done and everything is good, if you were talking building height for something besides a smoke stack,

you were putting office buildings at 100 feet, it was seen how the density restrictions would be met, so it seemed disingenuous to put a height restriction that could be waived if it was smoke stacks or some other type of structure and did not impact, but to put densities across the entire parcel seemed contradictory.

Ms. MacNeill stated when the overlay district was created, they listened to the developers and the City because there was a lot of uses such as restaurants and other gatherings of people, which was contrary to keeping densities down. They understood a place was wanted for employees to eat. The original recommendation was for no restaurants to be allowed in the LOOA. She corrected that even though ordnance was loaded in a safe mode and the ordnance was supposed to come off in low order, but it weighed 2,000 pounds. She explained no matter how careful they were, accidents are bound to happen. Ms. MacNeill explained Congress called the live ordnance and put in the law, so there should be no property owner who did not know what Nellis was doing and it was the intent of Nellis to make sure people were aware and development had to be compatible. The overlay district was a great step, but without some context and reference so everyone knows how it came about and what the City's interest was, the overlay district had to be the governing document to make it transparent so uses could not be just allowed outside of the public process, which is what is not allowed in there now and without the statement that says a development agreement that does not come to the Planning Commission, if that document can hit the public agenda 10 days before it goes to a vote and can allow uses that they just spent a year and a half developing, she asked where the transparency was in that process. She asked that the overlay district be the governing document, that if the City wanted to grant uses, that it go through the overlay change and be part of the public record so everyone knows and all developers are aware of what is being changed.

Mason Harvey asked if Staff or the Air Force knew of anywhere in the United States where there was an area that was specifically called "a live ordnance overflight area". He knew there were overflight areas in Miramar and bases in Colorado and they also carry live ordnance.

Ms. MacNeill responded Arizona had a state law that designated it for a couple of Air Force Bases in Arizona and California, but 75% of the live ordnance was flown by the Air Force in the United States was at Nellis. She stated it was the numbers of what they do and the numbers of planes. Probability will tell you that planes are going to crash and they have 27,000 flights per year and everything that has live ordnance is going to the north. Some flights already had to be cancelled due to their own self-imposed restriction to not fly to the south. If the northern departure was cut out, then the Base would not be allowed to function.

Mr. Harvey clarified there was a live ordnance designation in Arizona.

Ms. MacNeill responded there was. It was Arizona State Law and pointed out they do not fly with the same level of ordinance as Nellis.

Mr. Harvey asked if Staff had studied the economic impact of what would happen if the LOOA is actually instituted with the map. He explained he had been working for two years with Nellis and he was in the initial meetings and they were 98 percent there. They were in agreement with the end result in the restrictions and the land use, most of the zero population density, the type of buildings that could be built, but the definition of the LOOA, he felt there may be a different means to the end to come up with all of their acceptance of what was being done. He was behind the Air Force and supported them, he just had a problem looking at the tracks that covered the entire Apex area, knowing that if a plane goes down, loaded with fuel, there probably would be a larger problem than with a bomb and if that plane went down, it would not go in a defined area and it was discussed openly with Nellis the consequence of a pilot flying outside of that area and there wasn't one. He would accept the overlay district if there could be some changes to the definition of the title. He asked if there was a way to have an additional meeting with no delay, so changes in the verbiage could be made.

Ms. MacNeill explained the surface being defined was an FAA Military surface, it was the approach departure surface and it was defined in Federal Aviation Regulations and Flight Facility Code and it was a distance from the end of the runways, so the only way to change that would be to move the runways to 10 foot runways and they were not inclined to tear up the runways and change them.

Chairman Leavitt stated any decision made by the Commission or City Council were not written in stone, they could be changed. There were processes in place to handle changes. As far as Title 17 being amended and waiting for that document, now was the appropriate time to go forward with the overlay district, to have it included as Title 17 was being re-written.

Chairman Leavitt closed the Public Hearing.

Vice-Chairman Brown stated there should be something in the overlay district document that publicly acknowledged that the area was dangerous, regardless of whether it was identified as an overflight zone or an overflight zone with ordinance. For the City to operate under due diligence, it should be included and if it was in the document, it should be left.

Director Fiori stated Staff worked with Nellis regarding language for a preamble, which the City's legal Staff was not comfortable with, but language was added in the purpose statement that says that one of the purposes was "to promote the orderly and appropriate development of lands in a manner that is compatible with the mission of Nellis Air Force Base and further ensure the safety of the working and traveling public in light of the risks associated with overflights of aircraft carrying live ordinance from Nellis Air Force Base."

After hearing the explanation, Vice-Chairman Brown agreed with Chairman Leavitt.

ACTION: APPROVED; FORWARDED TO CITY COUNCIL FOR FINAL
CONSIDERATION

MOTION: Vice-Chairman Brown

SECOND: Commissioner Perkins

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato,
Trivedi, and Perkins

NAYS: Commissioner DePhillips

ABSTAIN: None

Item No. 7 was heard next.

6. **SPR-26-08 (39418) DECATUR DESERT PLAZA. AN APPLICATION SUBMITTED BY DECATUR DESERT PLAZA, LLC, PROPERTY OWNER, FOR AN AMENDMENT TO A PREVIOUSLY APPROVED SITE PLAN REVIEW IN A C-1, NEIGHBORHOOD COMMERCIAL DISTRICT TO REMOVE AND MODIFY EXISTING CONDITIONS OF APPROVAL. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF LONE MOUNTAIN ROAD AND DECATUR BOULEVARD. THE ASSESSOR'S PARCEL NUMBER IS 124-31-401-003.**

It was requested by the applicant to continue SPR-26-08 to September 9, 2009.

ACTION: CONTINUED TO SEPTEMBER 9, 2009

MOTION: Commissioner Trivedi

SECOND: Vice-Chairman Brown

AYES: Chairman Leavitt, Vice-Chairman Brown, Commissioners Aston, Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 1 was heard next.

OLD BUSINESS

7. **VN-10-09 (39289) LA MADRE/LAWRENCE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY RICHMOND AMERICAN HOMES NEVADA, INC., PROPERTY OWNER, FOR A VARIANCE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW A FIVE (5) FOOT CORNER SIDE YARD SETBACK WHERE A TEN (10) FOOT CORNER SIDE YARD SETBACK IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 4916 SEVIER DESERT STREET. THE ASSESSOR'S PARCEL NUMBER IS 124-35-812-080. (CONTINUED AUGUST 12, 2009)**

Item Nos. 7 through 11 were presented together.

The applications were presented by Robert Eastman, Principal Planner who explained the lots were for single-family homes that were purchased by Richmond American Homes and the applicant was requesting variances to the corner side lot landscaping. If Item Nos. 7 and 8 were approved, because they have a five foot setback, the setback also would give them a waiver of the required corner side lot landscaping. Currently, those corner lots have a six foot landscaping easement, which would require that those two lots come back to the Commission for a vacation of the one foot of easement and then be approved by City Council. The lots were all very similar and the applicant had submitted three models of homes that were shown in the documentation that do not fit the lots and they do not have a model for the subdivision that would fit with the additional requirement of the 10 foot setback on the corner side. Staff did not feel, that because of the nature of the development, that it was a unique circumstance or a hardship for the developer. While the map was already platted out and filed, the developer could have chosen to use different models that could have fit on the lot. There were other homes that could have fit and there are other home models from other builders that would fit on the lots. The applicant also had the right to file a new tentative map and re-map the property to provide lots of large enough size to allow them to put the desired models and Staff does not feel a variance was warranted, especially over such a large number of lots within the subdivision; therefore, was recommending that VN-10-09, VN-11-09, VN-12-09, VN-13-09 and VN-14-09 be denied.

Mark Sturdivant, 3277 East Warm Springs Road, Las Vegas, NV appeared on behalf of the applicant stating he thought the maximum intrusion of the setback was 4 ½ feet and there were two models on two lots that went up to five feet and apologized for misinformation given during the briefings. He stated they do not intrude more than five feet into any setback. Two of the models on two of the lots intrude five feet and the remainder are from six to eight feet to less than one half foot. The hardship was not self-imposed as the existing site was purchased from an existing developer and all of the infrastructure was

in place. There probably was a model somewhere in Richmond American's catalogue that would fit the site without intruding into the landscape buffer, but this was the model mix that Richmond felt was best for the location.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jay Aston stated it appeared if the homes were built as depicted, the side of the house would be used as the landscape area and if the block wall were constructed to the back corner, there would be a landscape area. He asked the location of the property line.

Mr. Sturdivant responded the property line was reflected in the large dashed line and was at the back of sidewalk.

Commissioner Aston asked if the landscape area was common area.

Mr. Sturdivant responded it was owned by the homeowner, who would be responsible for maintaining the landscaping on their property.

Chairman Aston asked if Staff had any objection to that type of set-up, so the landscape buffer was maintained.

Mr. Eastman responded in the Design Standards, the preferred method would be that the landscaping be in a common element; however, from a legal perspective, the original developer does have the right to put the corner side lot landscaping in a landscape easement.

Commissioner Aston asked if the lots should show the easement.

Mr. Eastman explained there were easements on the lots that were not properly displayed on the plan and the easement was a six foot wide landscape easement and that was why Item Nos. 7 and 8, if approved, still had to come back before the Commission to get a vacation to vacate some of the easement.

Commissioner Aston asked the applicant if he had an idea of where the air conditioning condensers would be located.

Mr. Sturdivant responded the air conditioning condensers were originally conceived to be located on the sides of the house, so the A/C pads were shown at that location and the one that would fit would remain and those that did not would be moved to the rear of the house.

Mr. Sturdivant asked Staff if he would have difficulty when asking for vacation of a one foot landscape easement.

Mr. Eastman responded if the Planning Commission were to approve the variance, then from a Staff perspective, the direction had been given; therefore, Staff would find it difficult to recommend denial for a vacation of the one foot.

Commissioner Aston asked if the variance application was different than what was shown on the drawing and if the requested variance was approved, if it could be conditioned based upon the proposed drawings.

Commissioner Laura Perkins stated that rather than put Staff in a precarious spot, if the drawing being seen by the Commission were not the drawing reviewed by Staff, then the applications should be continued for two weeks to allow Staff time to review them.

Mr. Sturdivant stated he was requested not to continue the applications.

Acting City Attorney Nick Vaskov stated he did not know if the map reflected the easements required and thought the applicant may have to conform his map to the conditions. The conditions listed in the Staff Report allowed for approval and addressed all of Staff's concerns.

Marc Jordan, Planning Manager indicated Acting City Attorney Vaskov was correct. The recommendation was for denial, but if it was the desire of the Commission to approve the application, the conditions listed would satisfy that and would allow the variances and the applicant would have to apply for the easements later.

Acting City Attorney Vaskov informed the Commission because the applications were all related, if it was the Commission's desire to approve or disapprove the applications as one motion they could.

Commissioner Dilip Trivedi supported Staff's recommendation of denial.

Commissioner Steve Brown supported Staff's recommendation and did not feel a variance should be given because the developer was being stubborn. He asked if the conditions took into account that the landscaping need to be five feet from a house and three foot from a wall due to expansive soils, or if that was not something that was taken into account.

Mr. Eastman responded the landscaping was covered in the single-family design standards.

Vice-Chairman Brown asked if they were talking about bringing the house within five feet of the sidewalk.

Mr. Eastman stated that was correct and explained the requirements in the single-family design guidelines required that area to be landscaped. The soils report could the soils were expansive and they should not plant or cannot plant within three feet and then Staff's response from both the Building Division of Public Works and Planning and Zoning was that the builder would need to work with their soils engineer and their landscape professional to find the mitigating measure to ensure that landscaping was within the five feet.

Commissioner Perkins clarified the house would be located within five feet of the sidewalk. She had seen on Martin Luther King Boulevard where vehicles had jumped the curb and come into someone's home because it was too close to the curb. With the proposed properties, if they faced a road and were more interior to the development, she could support the request, but since they were against the street, she was opposed to the request.

ACTION: DENIED

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Trivedi, Perkins, and DePhillips

NAYS: Chairman Leavitt, Commissioners Aston and Cato

ABSTAIN: None

8. **VN-11-09 (39291) LA MADRE/LAWRENCE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY RICHMOND AMERICAN HOMES NEVADA, INC., PROPERTY OWNER, FOR A VARIANCE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW A FIVE (5) FOOT CORNER SIDE YARD SETBACK WHERE A TEN (10) FOOT CORNER SIDE YARD SETBACK IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 4932 SEVIER DESERT STREET. THE ASSESSOR'S PARCEL NUMBER IS 124-35-812-076. (CONTINUED AUGUST 12, 2009)**

The presentation and discussion from Item No. 7 was carried forward as follows:

Item Nos. 7 through 11 were presented together.

The applications were presented by Robert Eastman, Principal Planner who explained the lots were for single-family homes that were purchased by Richmond American Homes and the applicant was requesting variances to the corner side lot landscaping. If Item Nos. 7 and 8 were approved, because they have a five foot setback, the setback also would give them a waiver of the required corner side lot landscaping. Currently, those corner lots have a six foot landscaping easement, which would require that those two lots come back to the Commission for a vacation of the one foot of easement and then be approved by City Council. The lots were all very similar and the applicant had submitted three models of homes that were shown in the documentation that do not fit the lots and they do not have a model for the subdivision that would fit with the additional requirement of the 10 foot setback on the corner side. Staff did not feel, that because of the nature of the development, that it was a unique circumstance or a hardship for the developer. While the map was already platted out and filed, the developer could have chosen to use different models that could have fit on the lot. There were other homes that could have fit and there are other home models from other builders that would fit on the lots. The applicant also had the right to file a new tentative map and re-map the property to provide lots of large enough size to allow them to put the desired models and Staff does not feel a variance was warranted, especially over such a large number of lots within the subdivision; therefore, was recommending that VN-10-09, VN-11-09, VN-12-09, VN-13-09 and VN-14-09 be denied.

Mark Sturdivant, 3277 East Warm Springs Road, Las Vegas, NV appeared on behalf of the applicant stating he thought the maximum intrusion of the setback was 4 ½ feet and there were two models on two lots that went up to five feet and apologized for misinformation given during the briefings. He stated they do not intrude more than five feet into any setback. Two of the models on two of the lots intrude five feet and the remainder are from six to eight feet to less than one half foot. The hardship was not self-imposed as the existing site was purchased from an existing developer and all of the infrastructure was

in place. There probably was a model somewhere in Richmond American's catalogue that would fit the site without intruding into the landscape buffer, but this was the model mix that Richmond felt was best for the location.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jay Aston stated it appeared if the homes were built as depicted, the side of the house would be used as the landscape area and if the block wall were constructed to the back corner, there would be a landscape area. He asked the location of the property line.

Mr. Sturdivant responded the property line was reflected in the large dashed line and was at the back of sidewalk.

Commissioner Aston asked if the landscape area was common area.

Mr. Sturdivant responded it was owned by the homeowner, who would be responsible for maintaining the landscaping on their property.

Chairman Aston asked if Staff had any objection to that type of set-up, so the landscape buffer was maintained.

Mr. Eastman responded in the Design Standards, the preferred method would be that the landscaping be in a common element; however, from a legal perspective, the original developer does have the right to put the corner side lot landscaping in a landscape easement.

Commissioner Aston asked if the lots should show the easement.

Mr. Eastman explained there were easements on the lots that were not properly displayed on the plan and the easement was a six foot wide landscape easement and that was why Item Nos. 7 and 8, if approved, still had to come back before the Commission to get a vacation to vacate some of the easement.

Commissioner Aston asked the applicant if he had an idea of where the air conditioning condensers would be located.

Mr. Sturdivant responded the air conditioning condensers were originally conceived to be located on the sides of the house, so the A/C pads were shown at that location and the one that would fit would remain and those that did not would be moved to the rear of the house.

Mr. Sturdivant asked Staff if he would have difficulty when asking for vacation of a one foot landscape easement.

Mr. Eastman responded if the Planning Commission were to approve the variance, then from a Staff perspective, the direction had been given; therefore, Staff would find it difficult to recommend denial for a vacation of the one foot.

Commissioner Aston asked if the variance application was different than what was shown on the drawing and if the requested variance was approved, if it could be conditioned based upon the proposed drawings.

Commissioner Laura Perkins stated that rather than put Staff in a precarious spot, if the drawing being seen by the Commission were not the drawing reviewed by Staff, then the applications should be continued for two weeks to allow Staff time to review them.

Mr. Sturdivant stated he was requested not to continue the applications.

Acting City Attorney Nick Vaskov stated he did not know if the map reflected the easements required and thought the applicant may have to conform his map to the conditions. The conditions listed in the Staff Report allowed for approval and addressed all of Staff's concerns.

Marc Jordan, Planning Manager indicated Acting City Attorney Vaskov was correct. The recommendation was for denial, but if it was the desire of the Commission to approve the application, the conditions listed would satisfy that and would allow the variances and the applicant would have to apply for the easements later.

Acting City Attorney Vaskov informed the Commission because the applications were all related, if it was the Commission's desire to approve or disapprove the applications as one motion they could.

Commissioner Dilip Trivedi supported Staff's recommendation of denial.

Commissioner Steve Brown supported Staff's recommendation and did not feel a variance should be given because the developer was being stubborn. He asked if the conditions took into account that the landscaping need to be five feet from a house and three foot from a wall due to expansive soils, or if that was not something that was taken into account.

Mr. Eastman responded the landscaping was covered in the single-family design standards.

Vice-Chairman Brown asked if they were talking about bringing the house within five feet of the sidewalk.

Mr. Eastman stated that was correct and explained the requirements in the single-family design guidelines required that area to be landscaped. The soils report could the soils were expansive and they should not plant or cannot plant within three feet and then Staff's response from both the Building Division of Public Works and Planning and Zoning was that the builder would need to work with their soils engineer and their landscape professional to find the mitigating measure to ensure that landscaping was within the five feet.

Commissioner Perkins clarified the house would be located within five feet of the sidewalk. She had seen on Martin Luther King Boulevard where vehicles had jumped the curb and come into someone's home because it was too close to the curb. With the proposed properties, if they faced a road and were more interior to the development, she could support the request, but since they were against the street, she was opposed to the request.

ACTION: DENIED

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Trivedi, Perkins, and DePhillips

NAYS: Chairman Leavitt, Commissioners Aston and Cato

ABSTAIN: None

9. **VN-12-09 (39293) LA MADRE/LAWRENCE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY RICHMOND AMERICAN HOMES NEVADA, INC., PROPERTY OWNER, FOR A VARIANCE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW AN EIGHT (8) FOOT CORNER SIDE YARD SETBACK WHERE A TEN (10) FOOT CORNER SIDE YARD SETBACK IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 1804 MAGDELENA RIDGE AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 124-35-812-046. (CONTINUED AUGUST 12, 2009)**

The presentation and discussion from Item No. 7 was carried forward as follows:

Item Nos. 7 through 11 were presented together.

The applications were presented by Robert Eastman, Principal Planner who explained the lots were for single-family homes that were purchased by Richmond American Homes and the applicant was requesting variances to the corner side lot landscaping. If Item Nos. 7 and 8 were approved, because they have a five foot setback, the setback also would give them a waiver of the required corner side lot landscaping. Currently, those corner lots have a six foot landscaping easement, which would require that those two lots come back to the Commission for a vacation of the one foot of easement and then be approved by City Council. The lots were all very similar and the applicant had submitted three models of homes that were shown in the documentation that do not fit the lots and they do not have a model for the subdivision that would fit with the additional requirement of the 10 foot setback on the corner side. Staff did not feel, that because of the nature of the development, that it was a unique circumstance or a hardship for the developer. While the map was already platted out and filed, the developer could have chosen to use different models that could have fit on the lot. There were other homes that could have fit and there are other home models from other builders that would fit on the lots. The applicant also had the right to file a new tentative map and re-map the property to provide lots of large enough size to allow them to put the desired models and Staff does not feel a variance was warranted, especially over such a large number of lots within the subdivision; therefore, was recommending that VN-10-09, VN-11-09, VN-12-09, VN-13-09 and VN-14-09 be denied.

Mark Sturdivant, 3277 East Warm Springs Road, Las Vegas, NV appeared on behalf of the applicant stating he thought the maximum intrusion of the setback was 4 ½ feet and there were two models on two lots that went up to five feet and apologized for misinformation given during the briefings. He stated they do not intrude more than five feet into any setback. Two of the models on two of the lots intrude five feet and the remainder are from six to eight feet to less than one half foot. The hardship was not self-imposed as the existing site was purchased from an existing developer and all of the infrastructure was

in place. There probably was a model somewhere in Richmond American's catalogue that would fit the site without intruding into the landscape buffer, but this was the model mix that Richmond felt was best for the location.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jay Aston stated it appeared if the homes were built as depicted, the side of the house would be used as the landscape area and if the block wall were constructed to the back corner, there would be a landscape area. He asked the location of the property line.

Mr. Sturdivant responded the property line was reflected in the large dashed line and was at the back of sidewalk.

Commissioner Aston asked if the landscape area was common area.

Mr. Sturdivant responded it was owned by the homeowner, who would be responsible for maintaining the landscaping on their property.

Chairman Aston asked if Staff had any objection to that type of set-up, so the landscape buffer was maintained.

Mr. Eastman responded in the Design Standards, the preferred method would be that the landscaping be in a common element; however, from a legal perspective, the original developer does have the right to put the corner side lot landscaping in a landscape easement.

Commissioner Aston asked if the lots should show the easement.

Mr. Eastman explained there were easements on the lots that were not properly displayed on the plan and the easement was a six foot wide landscape easement and that was why Item Nos. 7 and 8, if approved, still had to come back before the Commission to get a vacation to vacate some of the easement.

Commissioner Aston asked the applicant if he had an idea of where the air conditioning condensers would be located.

Mr. Sturdivant responded the air conditioning condensers were originally conceived to be located on the sides of the house, so the A/C pads were shown at that location and the one that would fit would remain and those that did not would be moved to the rear of the house.

Mr. Sturdivant asked Staff if he would have difficulty when asking for vacation of a one foot landscape easement.

Mr. Eastman responded if the Planning Commission were to approve the variance, then from a Staff perspective, the direction had been given; therefore, Staff would find it difficult to recommend denial for a vacation of the one foot.

Commissioner Aston asked if the variance application was different than what was shown on the drawing and if the requested variance was approved, if it could be conditioned based upon the proposed drawings.

Commissioner Laura Perkins stated that rather than put Staff in a precarious spot, if the drawing being seen by the Commission were not the drawing reviewed by Staff, then the applications should be continued for two weeks to allow Staff time to review them.

Mr. Sturdivant stated he was requested not to continue the applications.

Acting City Attorney Nick Vaskov stated he did not know if the map reflected the easements required and thought the applicant may have to conform his map to the conditions. The conditions listed in the Staff Report allowed for approval and addressed all of Staff's concerns.

Marc Jordan, Planning Manager indicated Acting City Attorney Vaskov was correct. The recommendation was for denial, but if it was the desire of the Commission to approve the application, the conditions listed would satisfy that and would allow the variances and the applicant would have to apply for the easements later.

Acting City Attorney Vaskov informed the Commission because the applications were all related, if it was the Commission's desire to approve or disapprove the applications as one motion they could.

Commissioner Dilip Trivedi supported Staff's recommendation of denial.

Commissioner Steve Brown supported Staff's recommendation and did not feel a variance should be given because the developer was being stubborn. He asked if the conditions took into account that the landscaping need to be five feet from a house and three foot from a wall due to expansive soils, or if that was not something that was taken into account.

Mr. Eastman responded the landscaping was covered in the single-family design standards.

Vice-Chairman Brown asked if they were talking about bringing the house within five feet of the sidewalk.

Mr. Eastman stated that was correct and explained the requirements in the single-family design guidelines required that area to be landscaped. The soils report could the soils were expansive and they should not plant or cannot plant within three feet and then Staff's response from both the Building Division of Public Works and Planning and Zoning was that the builder would need to work with their soils engineer and their landscape professional to find the mitigating measure to ensure that landscaping was within the five feet.

Commissioner Perkins clarified the house would be located within five feet of the sidewalk. She had seen on Martin Luther King Boulevard where vehicles had jumped the curb and come into someone's home because it was too close to the curb. With the proposed properties, if they faced a road and were more interior to the development, she could support the request, but since they were against the street, she was opposed to the request.

ACTION: DENIED

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Trivedi, Perkins, and DePhillips

NAYS: Chairman Leavitt, Commissioners Aston and Cato

ABSTAIN: None

10. **VN-13-09 (39292) LA MADRE/LAWRENCE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY RICHMOND AMERICAN HOMES NEVADA, INC., PROPERTY OWNER, FOR A VARIANCE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW A SIX (6) FOOT CORNER SIDE YARD SETBACK WHERE A TEN (10) FOOT CORNER SIDE YARD SETBACK IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 4828 SEVIER DESERT STREET. THE ASSESSOR'S PARCEL NUMBER IS 124-35-812-056. (CONTINUED AUGUST 12, 2009)**

The presentation and discussion from Item No. 7 was carried forward as follows:

Item Nos. 7 through 11 were presented together.

The applications were presented by Robert Eastman, Principal Planner who explained the lots were for single-family homes that were purchased by Richmond American Homes and the applicant was requesting variances to the corner side lot landscaping. If Item Nos. 7 and 8 were approved, because they have a five foot setback, the setback also would give them a waiver of the required corner side lot landscaping. Currently, those corner lots have a six foot landscaping easement, which would require that those two lots come back to the Commission for a vacation of the one foot of easement and then be approved by City Council. The lots were all very similar and the applicant had submitted three models of homes that were shown in the documentation that do not fit the lots and they do not have a model for the subdivision that would fit with the additional requirement of the 10 foot setback on the corner side. Staff did not feel, that because of the nature of the development, that it was a unique circumstance or a hardship for the developer. While the map was already platted out and filed, the developer could have chosen to use different models that could have fit on the lot. There were other homes that could have fit and there are other home models from other builders that would fit on the lots. The applicant also had the right to file a new tentative map and re-map the property to provide lots of large enough size to allow them to put the desired models and Staff does not feel a variance was warranted, especially over such a large number of lots within the subdivision; therefore, was recommending that VN-10-09, VN-11-09, VN-12-09, VN-13-09 and VN-14-09 be denied.

Mark Sturdivant, 3277 East Warm Springs Road, Las Vegas, NV appeared on behalf of the applicant stating he thought the maximum intrusion of the setback was 4 ½ feet and there were two models on two lots that went up to five feet and apologized for misinformation given during the briefings. He stated they do not intrude more than five feet into any setback. Two of the models on two of the lots intrude five feet and the remainder are from six to eight feet to less than one half foot. The hardship was not self-imposed as the existing site was purchased from an existing developer and all of the infrastructure was

in place. There probably was a model somewhere in Richmond American's catalogue that would fit the site without intruding into the landscape buffer, but this was the model mix that Richmond felt was best for the location.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jay Aston stated it appeared if the homes were built as depicted, the side of the house would be used as the landscape area and if the block wall were constructed to the back corner, there would be a landscape area. He asked the location of the property line.

Mr. Sturdivant responded the property line was reflected in the large dashed line and was at the back of sidewalk.

Commissioner Aston asked if the landscape area was common area.

Mr. Sturdivant responded it was owned by the homeowner, who would be responsible for maintaining the landscaping on their property.

Chairman Aston asked if Staff had any objection to that type of set-up, so the landscape buffer was maintained.

Mr. Eastman responded in the Design Standards, the preferred method would be that the landscaping be in a common element; however, from a legal perspective, the original developer does have the right to put the corner side lot landscaping in a landscape easement.

Commissioner Aston asked if the lots should show the easement.

Mr. Eastman explained there were easements on the lots that were not properly displayed on the plan and the easement was a six foot wide landscape easement and that was why Item Nos. 7 and 8, if approved, still had to come back before the Commission to get a vacation to vacate some of the easement.

Commissioner Aston asked the applicant if he had an idea of where the air conditioning condensers would be located.

Mr. Sturdivant responded the air conditioning condensers were originally conceived to be located on the sides of the house, so the A/C pads were shown at that location and the one that would fit would remain and those that did not would be moved to the rear of the house.

Mr. Sturdivant asked Staff if he would have difficulty when asking for vacation of a one foot landscape easement.

Mr. Eastman responded if the Planning Commission were to approve the variance, then from a Staff perspective, the direction had been given; therefore, Staff would find it difficult to recommend denial for a vacation of the one foot.

Commissioner Aston asked if the variance application was different than what was shown on the drawing and if the requested variance was approved, if it could be conditioned based upon the proposed drawings.

Commissioner Laura Perkins stated that rather than put Staff in a precarious spot, if the drawing being seen by the Commission were not the drawing reviewed by Staff, then the applications should be continued for two weeks to allow Staff time to review them.

Mr. Sturdivant stated he was requested not to continue the applications.

Acting City Attorney Nick Vaskov stated he did not know if the map reflected the easements required and thought the applicant may have to conform his map to the conditions. The conditions listed in the Staff Report allowed for approval and addressed all of Staff's concerns.

Marc Jordan, Planning Manager indicated Acting City Attorney Vaskov was correct. The recommendation was for denial, but if it was the desire of the Commission to approve the application, the conditions listed would satisfy that and would allow the variances and the applicant would have to apply for the easements later.

Acting City Attorney Vaskov informed the Commission because the applications were all related, if it was the Commission's desire to approve or disapprove the applications as one motion they could.

Commissioner Dilip Trivedi supported Staff's recommendation of denial.

Commissioner Steve Brown supported Staff's recommendation and did not feel a variance should be given because the developer was being stubborn. He asked if the conditions took into account that the landscaping need to be five feet from a house and three foot from a wall due to expansive soils, or if that was not something that was taken into account.

Mr. Eastman responded the landscaping was covered in the single-family design standards.

Vice-Chairman Brown asked if they were talking about bringing the house within five feet of the sidewalk.

Mr. Eastman stated that was correct and explained the requirements in the single-family design guidelines required that area to be landscaped. The soils report could the soils were expansive and they should not plant or cannot plant within three feet and then Staff's response from both the Building Division of Public Works and Planning and Zoning was that the builder would need to work with their soils engineer and their landscape professional to find the mitigating measure to ensure that landscaping was within the five feet.

Commissioner Perkins clarified the house would be located within five feet of the sidewalk. She had seen on Martin Luther King Boulevard where vehicles had jumped the curb and come into someone's home because it was too close to the curb. With the proposed properties, if they faced a road and were more interior to the development, she could support the request, but since they were against the street, she was opposed to the request.

ACTION: DENIED

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Trivedi, Perkins, and DePhillips

NAYS: Chairman Leavitt, Commissioners Aston and Cato

ABSTAIN: None

11. **VN-14-09 (39294) LA MADRE/LAWRENCE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY RICHMOND AMERICAN HOMES NEVADA, INC., PROPERTY OWNER, FOR A VARIANCE IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW AN EIGHT (8) FOOT CORNER SIDE YARD SETBACK WHERE A TEN (10) FOOT CORNER SIDE YARD SETBACK IS THE MINIMUM REQUIRED. THE PROPERTY IS LOCATED AT 4940 SEVIER DESERT STREET. THE ASSESSOR'S PARCEL NUMBER IS 124-35-812-075. (CONTINUED AUGUST 12, 2009)**

The presentation and discussion from Item No. 7 was carried forward as follows:

Item Nos. 7 through 11 were presented together.

The applications were presented by Robert Eastman, Principal Planner who explained the lots were for single-family homes that were purchased by Richmond American Homes and the applicant was requesting variances to the corner side lot landscaping. If Item Nos. 7 and 8 were approved, because they have a five foot setback, the setback also would give them a waiver of the required corner side lot landscaping. Currently, those corner lots have a six foot landscaping easement, which would require that those two lots come back to the Commission for a vacation of the one foot of easement and then be approved by City Council. The lots were all very similar and the applicant had submitted three models of homes that were shown in the documentation that do not fit the lots and they do not have a model for the subdivision that would fit with the additional requirement of the 10 foot setback on the corner side. Staff did not feel, that because of the nature of the development, that it was a unique circumstance or a hardship for the developer. While the map was already platted out and filed, the developer could have chosen to use different models that could have fit on the lot. There were other homes that could have fit and there are other home models from other builders that would fit on the lots. The applicant also had the right to file a new tentative map and re-map the property to provide lots of large enough size to allow them to put the desired models and Staff does not feel a variance was warranted, especially over such a large number of lots within the subdivision; therefore, was recommending that VN-10-09, VN-11-09, VN-12-09, VN-13-09 and VN-14-09 be denied.

Mark Sturdivant, 3277 East Warm Springs Road, Las Vegas, NV appeared on behalf of the applicant stating he thought the maximum intrusion of the setback was 4 ½ feet and there were two models on two lots that went up to five feet and apologized for misinformation given during the briefings. He stated they do not intrude more than five feet into any setback. Two of the models on two of the lots intrude five feet and the remainder are from six to eight feet to less than one half foot. The hardship was not self-imposed as the existing site was purchased from an existing developer and all of the infrastructure was

in place. There probably was a model somewhere in Richmond American's catalogue that would fit the site without intruding into the landscape buffer, but this was the model mix that Richmond felt was best for the location.

Chairman Dean Leavitt opened the Public Hearing. There was no public participation.

Chairman Leavitt closed the Public Hearing.

Commissioner Jay Aston stated it appeared if the homes were built as depicted, the side of the house would be used as the landscape area and if the block wall were constructed to the back corner, there would be a landscape area. He asked the location of the property line.

Mr. Sturdivant responded the property line was reflected in the large dashed line and was at the back of sidewalk.

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Chairman Aston asked if Staff had any objection to that type of set-up, so the landscape buffer was maintained.

Mr. Eastman responded in the Design Standards, the preferred method would be that the landscaping be in a common element; however, from a legal perspective, the original developer does have the right to put the corner side lot landscaping in a landscape easement.

Commissioner Aston asked if the lots should show the easement.

Mr. Eastman explained there were easements on the lots that were not properly displayed on the plan and the easement was a six foot wide landscape easement and that was why Item Nos. 7 and 8, if approved, still had to come back before the Commission to get a vacation to vacate some of the easement.

Commissioner Aston asked the applicant if he had an idea of where the air conditioning condensers would be located.

Mr. Sturdivant responded the air conditioning condensers were originally conceived to be located on the sides of the house, so the A/C pads were shown at that location and the one that would fit would remain and those that did not would be moved to the rear of the house.

Mr. Sturdivant asked Staff if he would have difficulty when asking for vacation of a one foot landscape easement.

Mr. Eastman responded if the Planning Commission were to approve the variance, then from a Staff perspective, the direction had been given; therefore, Staff would find it difficult to recommend denial for a vacation of the one foot.

Commissioner Aston asked if the variance application was different than what was shown on the drawing and if the requested variance was approved, if it could be conditioned based upon the proposed drawings.

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Mr. Sturdivant stated he was requested not to continue the applications.

Acting City Attorney Nick Vaskov stated he did not know if the map reflected the easements required and thought the applicant may have to conform his map to the conditions. The conditions listed in the Staff Report allowed for approval and addressed all of Staff's concerns.

Marc Jordan, Planning Manager indicated Acting City Attorney Vaskov was correct. The recommendation was for denial, but if it was the desire of the Commission to approve the application, the conditions listed would satisfy that and would allow the variances and the applicant would have to apply for the easements later.

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Commissioner Dilip Trivedi supported Staff's recommendation of denial.

Commissioner Steve Brown supported Staff's recommendation and did not feel a variance should be given because the developer was being stubborn. He asked if the conditions took into account that the landscaping need to be five feet from a house and three foot from a wall due to expansive soils, or if that was not something that was taken into account.

Mr. Eastman responded the landscaping was covered in the single-family design standards.

Vice-Chairman Brown asked if they were talking about bringing the house within five feet of the sidewalk.

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Commissioner Perkins clarified the house would be located within five feet of the sidewalk. She had seen on Martin Luther King Boulevard where vehicles had jumped the curb and come into someone's home because it was too close to the curb. With the proposed properties, if they faced a road and were more interior to the development, she could support the request, but since they were against the street, she was opposed to the request.

ACTION: DENIED

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Trivedi, Perkins, and DePhillips

NAYS: Chairman Leavitt, Commissioners Aston and Cato

ABSTAIN: None

PUBLIC FORUM

There was no public participation.

DIRECTOR'S BUSINESS

Frank Fiori, Planning and Zoning Director explained the City was looking at cost savings of having the Planning Commission meetings held once a month and asked for input from Commissioners.

The Commission agreed, if the meetings were held once a month, the cost savings was minimal and would inconvenience the residents and development community; therefore, it was unanimously recommended that the Planning Commission meetings continue to be held two times per month.

CHAIRMAN'S BUSINESS

Commissioner Dilip Trivedi asked that in the rewrite of Title 17, green measures be added.

Director Fiori explained green measures were being incorporated into Title 17 and City Council had recently adopted a program called "Green LV" in which the City would be looking at green programs and the City was also involved in the "Green Chips Initiative."

Vice-Chairman Steve Brown thanked Staff for the work done in preparation for meetings and always being available to answer Commissioners' questions.

ADJOURNMENT

The meeting adjourned at 8:42 p.m.

APPROVED: September 23, 2009

/s/ Steve Brown, Vice-Chairman
Dean Leavitt, Chairman

/s/ Jo Ann Lawrence
Jo Ann Lawrence, Recording Secretary