



## Legislation Details (With Text)

**File #:** 15-00577      **Version:** 1      **Name:**

**Type:** Planning Case      **Status:** Passed

**File created:** 9/8/2015      **In control:** City Council

**On agenda:** 10/13/2015      **Final action:** 10/13/2015

**Title:** An appeal of the Planning Commission’s denial of an appeal of an administrative approval of a non-use variance to allow a 2.3 foot side yard setback where 5 feet are required, located at 5675 Majestic Drive.  
Quasi-Judicial

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Appeal Statement-Majestic, 2. 5675 Majestic Council presentation 101315, 3. CPC Appellant Picture of property line, 4. CPC Applicant presentation, 5. 5675 Majestic Appeal CPC Agenda staff report, 6. CPC Minutes August 20 2015-Majestic, 7. Criteria-7.5.802.B-Nonuse Variance, 8. Criteria-7.5.803.B-Appeal

Date	Ver.	Action By	Action	Result
10/13/2015	1	City Council	approved	Pass
9/22/2015	1	City Council	postpone to a date certain	Pass

An appeal of the Planning Commission’s denial of an appeal of an administrative approval of a non-use variance to allow a 2.3 foot side yard setback where 5 feet are required, located at 5675 Majestic Drive.  
Quasi-Judicial

**From:**

Peter Wysocki, Planning and Development Director, Planning and Development Department

**Summary:**

This is an appeal of the Planning Commission’s action to deny the appeal of an administrative decision to approve a non-use variance to allow a 2.3 foot side yard setback where 5 feet are required.

**Previous Council Action:**

None

**Background:**

Upon learning of the appeal of Planning Commission’s decision, the original applicant - Scott Hente of Robert-Scott General Contractors, Inc. - requested that City Council postpone the hearing to the October 13, 2015 Council meeting. On September 22, 2015 City Council unanimously postponed the hearing as requested.

In July of 2015 Planning Staff administratively approved a side yard setback variance allowing a 2.3 foot side setback where 5 feet are required in the Parkside at Mountain Shadows PUD zone. The variance allowed the existing single-family home foundation to remain in place as constructed. The adjacent neighbor to the east appealed the administrative approval to the City's Planning Commission. The Planning Commission staff report provides additional detail on the original application and the neighbor's appeal.

**Financial Implications:**

Not applicable.

**Board/Commission Recommendation:**

At their meeting on August 20, 2015 the Planning Commission failed to approve the appeal of Staff's administrative approval with a vote of 3-3. The fact that a majority of the Planning Commissioners did not support the appeal resulted in a denial.

**Stakeholder Process:**

Planning Staff contacted the neighboring property owner (the appellant) and the Home Owner Association representative via phone shortly after the application was submitted. Prior to the Planning Commission hearing on August 20, 2015 a standard notification process was used sending notices to 22 property owners within 150 feet of the subject property.

**Alternatives:**

1. Deny the appeal, upholding Planning Staff's administrative approval of the non-use variance.
2. Approve the appeal, overturning Planning Staff's administrative approval of the non-use variance.
3. Refer the item back to Planning Commission for additional consideration.

**Proposed Motion:**

AR NV 15-00413(AP)

Deny the appeal, upholding Planning Staff's administrative approval, based on the finding that the appeal has not met the criteria contained in City Code Section 7.5.906(4) and that the application meets the non-use variance review criteria found in City Code Section 7.5.802.B.

Not applicable.