



AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: OCTOBER 16, 2024

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: ICON POWER - OWNER: MARICELA PALACIOS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0275-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 319

PROTESTS N/A

APPROVALS N/A

**** CONDITIONS ****

24-0275-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed.
2. A Variance is hereby approved, to allow a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1].
3. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 1].
4. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2].
5. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4].
6. A Variance is hereby approved to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required.
7. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
8. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.
9. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
10. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Variance request for multiple existing Residential Accessory Structures that do not comply with Title 19 development standards at 815 Clarkway Drive.

ISSUES

- A Code Enforcement case (#CE23-06123) is open citing unpermitted structures and animals at the subject property. The case remains unresolved, pending the results of this Variance.
- A Variance is requested to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed. Staff does not support the request.
- A Variance is requested to allow a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 1]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4]. Staff does not support the request.
- A Variance is requested to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required. Staff does not support the request.
- Any Residential, Accessory Structures at the subject property that was not included in this Variance request shall meet Title 19 requirements or submit an application for a Variance.

ANALYSIS

The subject site is zoned R-E (Residence Estates) and is subject to Title 19 development standards. The applicant has constructed multiple Residential Accessory Structures [Shade Structure and Sheds] without permits that fail to comply with Title 19 requirements. A Code Enforcement case (#CE23-06123) has been ongoing since September 2023, citing unpermitted structures and animals on the subject property.

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This Variance request involves the existing shade structure located in front of the primary dwelling and sheds located in the rear yard area of the property and does not include all the structures and animals noted by the Code Enforcement violations. The applicant is required to continue working with Code Enforcement officers to bring the property into compliance.

Per the submitted plans, solar panels are installed on the roof of the shade structure located in front of the primary dwelling unit. A building permit (#R23-09258) was issued for solar panels at the subject property in June 2023, however a building permit was not issued for the shade structure. Additionally, the submitted site plan depicts four sheds in the rear yard area that do not meet Title 19.06 requirements. As such, the applicant is requesting a Variance to allow multiple existing Residential Accessory Structures [Shade structure and Sheds] to remain on the subject site as is.

The following table depicts the applicable development and design standards concerning Residential Accessory Structures with the requested deviations included in this Variance request:

<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
No accessory structure is permitted in front of the primary structure.	To allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure.	19.06.040	Denial
Five-foot side yard setback	To allow a two-foot side yard setback for an existing Residential Accessory Structure [Shed 1].	19.06.060	Denial
Five-foot side yard setback	To allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2].	19.06.060	Denial
Five-foot side yard setback	To allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4].	19.06.060	Denial
Five-foot rear yard setback	To allow a three-foot rear yard setback for an existing Residential Accessory Structure [Shed 1].	19.06.070	Denial

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<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
Accessory Structures must be aesthetically compatible with the principal dwelling unit	To allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit.	19.06.040	Denial

No evidence of a unique or extraordinary circumstance related to the physical characteristics of the property has been presented to warrant the requested Variance. As such, the hardship is self-imposed and therefore, staff recommends denial of this Variance request. If approved, it will be subject to conditions and building permits will need to be obtained.

FINDINGS (24-0275-VAR1)

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.16.140(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing multiple Residential Accessory Structures [Shade Structure and Sheds] without building permits that do not meet development standards. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
09/06/23	A Code Enforcement case (#CE23-06123) was processed for an unpermitted structure located in the front yard area and animals at 815 Clarkway Drive. The case remains unresolved.
08/13/24	The Planning Commission voted (6-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive.
09/10/24	The Planning Commission voted (7-0) to recommend DENIAL on the following Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive.

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Most Recent Change of Ownership	
08/09/04	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
02/01/23	A building permit (#R22-05282) was issued for a building addition at 815 Clarkway Drive.
06/14/23	An over the counter permit (#R23-09258) was issued for a photovoltaic system at 815 Clarkway Drive.
03/13/24	A building permit (#R24-03608) was processed for a shade structure at 815 Clarkway Drive. A permit has not been issued.

Pre-Application Meeting	
05/20/24	A pre-application meeting was held with the applicant and the submittal requirements for a Variance request were discussed.

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
07/03/24	Staff conducted a routine field check and observed an existing single-family dwelling with a shade structure located in the front of the property. Multiple vehicles were parked on-site. A Code Enforcement case (#CE23-06123) is active on the subject property.

Details of Application Request	
Site Area	
Net Acres	0.50

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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
North	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
South	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
East	Community Garden	MXU (Mixed Use)	R-E (Residence Estates)
West	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: West Las Vegas	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District - 140 Feet	Y

<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area - Area 1	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.06, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	18,000 SF	21,780 SF	Y
Min. Setbacks [Shed 1] <ul style="list-style-type: none"> Side (South) Rear (West) 	5 Feet 5 Feet	2 Feet 3 Feet	N* N*
Min. Setbacks [Shed 2] <ul style="list-style-type: none"> Side (North) 	5 Feet	2 Feet	N*
Min. Setbacks [Shed 3] <ul style="list-style-type: none"> Side (South) 	5 Feet	6 Feet	Y
Min. Setbacks [Shed 4] <ul style="list-style-type: none"> Side (North) 	5 Feet	2 Feet	N*
Min Setbacks [Shade Structure] <ul style="list-style-type: none"> Side (North) 	5 Feet	5 Feet	Y
Max. Building Height [Shade Structure]	14 Feet	14 Feet	Y

*A Variance is requested to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed; a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1], a two-foot side yard setback where five feet is required for Residential Accessory Structures [Sheds 1, 2 and 4]; and to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required.