



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**PLANNING COMMISSION MEETING DATE: MAY 14, 2024**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT/OWNER: IVAN SANCHEZ**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>23-0033-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

**\*\* NOTIFICATION \*\***

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 14

**NOTICES MAILED** 264

**PROTESTS** 1

**APPROVALS** 0

**\*\* CONDITIONS \*\***

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**24-0033-VAR1 CONDITIONS**

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**Planning**

1. A Variance is hereby approved to allow a two-foot separation from the primary dwelling where six feet is required, a 12-foot corner side yard setback where 15 feet is required, and a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Casita].
2. A Variance is hereby approved to allow a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Shed].
3. A Variance is hereby approved to allow a zero-foot side yard setback where three feet is required, and a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Chicken Coop].
4. A Variance is hereby approved to allow a total Residential Accessory Structure coverage of 63 percent of the primary dwelling floor area where 50 percent is the maximum allowed.
5. A Variance is hereby approved to allow all subject Residential Accessory Structures [Casita, Chicken Coop and Shed] to not be aesthetically compatible to the primary dwelling unit where such is required.
6. 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.
7. 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.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a Variance request for three existing Residential Accessory Structures that do not meet Title 19 requirements at 2401 Howard Drive.

**ISSUES**

- The requested Variance is the result of a Code Enforcement Case (CE23-02518). The case remains open pending the result of this Variance application.
- A Variance (24-0033-VAR1) is requested to allow a two-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Casita]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a 12-foot corner side yard setback where 15 feet is required for an existing Residential Accessory Structure [Casita]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Casita]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Shed]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Chicken Coop]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a zero-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Chicken Coop]. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow a total Residential Accessory Structure coverage of 63 percent of the primary dwelling floor area where 50 percent is the maximum allowed. Staff does not support the request.
- A Variance (24-0033-VAR1) is requested to allow all subject Residential Accessory Structures [Casita, Chicken Coop and Shed] to not be aesthetically compatible to the primary dwelling unit where such is required. Staff does not support the request.

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**ANALYSIS**

A Code Enforcement Case (CE23-02518) has been ongoing since May 2023 citing code violations for structures built without permits. The case remains unresolved, pending the result of this Variance (24-0033-VAR1) request in order to obtain all required building permits.

The subject site is zoned R-1 (Single Family Residential) and is subject to Title 19 development standards. The purpose of the R-1 District is to provide for the development of single family detached dwellings in a suburban setting. The subject property is developed with a single-family detached dwelling and is located in a residential neighborhood. The applicant has constructed three Residential Accessory Structures, without permits, that fail to comply with Title 19 development standards. According to the submitted plans, the subject structures include a casita, chicken coop, and a shed. Open Web shows the casita has been present in the property since at least 1998, and the chicken coop and shed sometimes between Spring 2021 to now.

The submitted plans depict three existing Residential Accessory Structures located in the rear yard area with a zero-foot rear yard setback. Per Title 19.06, Accessory Structures must have a three-foot rear yard setback. The plans also show that the Residential Accessory Structure [Casita] has a 12-foot corner side yard setback. Per Title 19.06, Accessory Structures located on the corner side yard must have a 15-foot corner side yard setback. Per the submitted plans, the Residential Accessory Structure [Chicken Coop] has a zero-foot side yard setback. Per Title 19.06, Accessory Structures must have a three-foot side yard setback. The plans also show that there is a two-foot separation from the primary dwelling for an existing Residential Accessory Structure [Casita]. Per Title 19.06, Accessory Structures must have a six-foot separation from the primary dwelling. Additionally, the total square-footage of all Residential Accessory Structures located on a residential property shall not exceed 50 percent of the floor area of the principal dwelling unit. Per the submitted plans, the Residential Accessory Structure coverage is 63 percent of the primary dwelling floor area.

There is no hardship related to the site's physical characteristics that would warrant deviation from Title 19 requirements. Staff therefore recommends denial of the Variance, with conditions if approved.

**FINDINGS (24-0033-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:

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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.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing unpermitted and noncompliant structures. The removal or replacement and redesign of the subject structures would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
05/02/23	A Code Enforcement Case (CE23-02518) was processed for unpermitted structures built without permits at 2401 Howard Drive. The case remains unresolved, pending the result of this Variance (24-0033-VAR1) request.

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<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
03/12/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project requests TO ALLOW A 12-FOOT CORNER SIDE YARD SETBACK WHERE 15 FEET IS REQUIRED, A TWO-FOOT SEPARATION FROM THE PRIMARY DWELLING WHERE SIX FEET IS REQUIRED, A ZERO-FOOT REAR YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [CASITA]; A ZERO-FOOT REAR YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHED]; A ZERO-FOOT REAR YARD SETBACK WHERE THREE FEET IS REQUIRED, AND A ZERO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [CHICKEN COOP]; AND A TOTAL ACCESSORY STRUCTURE COVERAGE OF 63 PERCENT OF THE PRIMARY DWELLING FLOOR AREA WHERE 50 PERCENT IS THE MAXIMUM ALLOWED, AND TO ALLOW RESIDENTIAL ACCESSORY STRUCTURES [CASITA, SHED, AND CHICKEN COOP] TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED

<b><i>Most Recent Change of Ownership</i></b>	
10/13/22	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
There are no related building permits.	

<b><i>Pre-Application Meeting</i></b>	
01/11/24	A pre-application meeting was held with the applicant and the submittal requirements for a Variance were discussed.

<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Field Check</i></b>	
01/30/24	Staff conducted a routine field check in which the subject site was observed with the subject structures. No other issues were noted.

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<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.15

<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Residential, Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North			
South			
East			
West			

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
Las Vegas 2050 Master Plan Area: Downtown South	Y
<b>Special Area and Overlay Districts</b>	<b>Compliance</b>
No Applicable Special Area or Overlay Districts	N/A
<b>Other Plans or Special Requirements</b>	<b>Compliance</b>
Trails	N/A
Las Vegas Redevelopment Plan Area	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 19.06, the following standards apply:**

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Setbacks (Residential Accessory Structures)			
• Side (Chicken Coop)	3 Feet	0 Feet	N*
• Corner (Casita)	15 Feet	12 Feet	N*
• Rear (Casita)	3 Feet	0 Feet	N*
• Rear (Shed)	3 Feet	0 Feet	N*
• Rear (Chicken Coop)	3 Feet	0 Feet	N*

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<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Separation from Main Building <ul style="list-style-type: none"> <li>Casita</li> </ul>	6 Feet	2 Feet	N*
Aesthetic Compatibility <ul style="list-style-type: none"> <li>Casita</li> <li>Shed</li> <li>Chicken Coop</li> </ul>	Accessory structures must be aesthetically compatible with the principal dwelling unit.	The accessory structures are not aesthetically compatible with the principal dwelling unit.	N*
Max. Lot Coverage	50%	63%	N*

*\*A Variance (24-0033-VAR1) has been requested to allow deviation of various Title 19 residential development standards.*