

*City of Las Vegas*

**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**PLANNING COMMISSION MEETING DATE: OCTOBER 10, 2023**  
**DEPARTMENT: COMMUNITY DEVELOPMENT**  
**ITEM DESCRIPTION: APPLICANT/OWNER: CESAR FLORES**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>23-0133-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      35

**NOTICES MAILED**    319

**PROTESTS**    0

**APPROVALS**    0

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

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**23-0133-VAR1 CONDITIONS**

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**Planning**

1. A Variance (23-0133-VAR1) is hereby approved to allow a one-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Carport 1].
2. A Variance (23-0133-VAR1) is hereby approved to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Carport 2].
3. A Variance (23-0133-VAR1) is hereby approved to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Carport 2].
4. A Variance (23-0133-VAR1) is hereby approved to allow a zero-foot side yard setback where five feet is required for an existing Patio Cover.
5. A Variance (23-0133-VAR1) is hereby approved to allow a 68 percent Residential Accessory Structure coverage where 50 percent is the maximum allowed.
6. A Variance (23-0133-VAR1) is hereby approved to allow an existing Residential Accessory Structure [Carport 1] to not be aesthetically compatible with the primary dwelling where such is required.
7. A Variance (23-0133-VAR1) is hereby approved to allow an existing Residential Accessory Structure [Carport 2] to not be aesthetically compatible with the primary dwelling where such is required
8. 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.
9. All existing chain link material shall be removed.
10. A site investigation will be necessary for the Residential Accessory Structure [Carport 2] to ensure load suitability.

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11. 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.
12. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
13. 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**

The applicant is requesting a Variance of various residential development standards that would allow for two existing and unpermitted Residential Accessory Structures [Carport 1 and 2] and one existing and unpermitted Patio Cover at 219 South 15th Street.

**ISSUES**

- The requested Variance is the result of a Code Enforcement Case (#CE23-00452) for the subject property. If approved, building permits must be obtained for the structures. If denied, the structures must be removed or brought into compliance with Title 19 and building codes. Staff does not support the request.
- A Variance (23-0133-VAR1) is requested to allow a one-foot side yard setback where three feet is required, and to not be aesthetically compatible with the primary dwelling where such is required for an existing Residential Accessory Structure [Carport 1], a zero-foot side yard setback where three feet is required, a zero-foot separation from the primary dwelling where six feet is required, and to not be aesthetically compatible with the primary dwelling where such is required for an existing Residential Accessory Structure [Carport 2], a zero-foot side yard setback where five feet is required for an existing Patio Cover, and a 68 percent Residential Accessory Structure coverage where 50 percent is the maximum allowed. Staff does not support the request.

**ANALYSIS**

The subject site is zoned R-1 (Single Family Residential) and is within the Downtown area of the 2050 City of Las Vegas Master Plan. The subject site has an L (Low Density Residential) General Plan Special Land Use Designation.

A Code Enforcement Case (#CE23-00452) has been ongoing since January 2023 to monitor progress of either removal or legalization of the subject structures. There are three existing and unpermitted structures that consist of two Residential Accessory Structures [Carport 1 and 2] and one Patio Cover. The Residential Accessory Structure [Carport 1] is located within the rear yard area and the Residential Accessory Structure [Carport 2] is located within the front yard area.

The submitted site plan, date stamped 08/02/23, depicts a Residential Accessory Structure [Carport 1] that has a one-foot side yard setback, a Residential Accessory Structure [Carport 2] that has a zero-foot side yard setback and a zero foot separation from the primary dwelling, and a Patio Cover that has a zero-foot side yard setback.

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The subject site is zoned R-1 (Single Family Residential). Title 19.06.070 requires the following concerning Residential Accessory Structures:

- Minimum rear yard setback: 3 feet
- Minimum side yard setback: 3 feet
- Separation from primary dwelling: 6 feet

The subject site is zoned R-1 (Single Family Residential). Title 19.06.070 requires the following concerning Patio Covers:

- Patio cover rear yard setback to post: 5 feet
- Patio cover side yard setback to post: 5 feet

The submitted elevations, date stamped 09/07/23, demonstrate that both Residential Accessory Structures [Carport 1 and 2] are not aesthetically compatible with the primary dwelling, as Carport 1 and 2 contain corrugated metal material and different colors than the primary dwelling. Therefore, both Residential Accessory Structures [Carport 1 and 2] do not meet the Accessory Structure requirements outlined under 19.06.040 Development Standards.

Per the submitted site plan, date stamped 08/02/23, the total square-footage of both Residential Accessory Structures [Carports 1 and 2] is 802 square feet. The primary dwelling is 1,179 square feet. Title 19.06.070 requires that the total Residential Accessory Structure coverage does not exceed 50 percent of the primary dwelling floor area. Therefore, the existing Residential Accessory Structures [Carport 1 and 2] do not meet this requirement, as the existing coverage is 68 percent.

The subject property was observed to have chain link material within the front yard setback area, which is not an allowed material per Title 19.06.040. A condition of approval was added ensure that the chain link material be removed.

Due to building code requirements, staff has concerns that some of the structures may be difficult to obtain permits for. Building codes require structures to be set back five feet from property lines or have properly fire-rated construction. Additionally, there can be no openings in the structure within the setback area. Structural engineering may be required to certify all plans for unpermitted structures. A condition of approval has been added that a site investigation will be necessary for the carport supported by a block wall to ensure load suitability for the Residential Accessory Structure [Carport 2].

There is no hardship related to the site's physical characteristics that would warrant deviation from code standards. Staff therefore recommends denial of the Variance, with conditions if approved. If denied, the structures must be brought into conformance and permitted or removed from the property in a timely manner.

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**FINDINGS (23-0133-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.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing two Residential Accessory Structures [Carport 1 and 2] and a Patio Cover within the required R-1 (Single Family Residential) zoning district setback areas. 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.

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### BACKGROUND INFORMATION

<b>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</b>	
01/23/23	Code Enforcement opened a Case (CE23-00452) regarding a residential auto repair shop operating at 219 South 15 <sup>th</sup> Street. During an inspection, Code Enforcement staff noted an unpermitted Residential Accessory Structure located within the front yard setback. The case remains active as of 09/11/23.

<b>Most Recent Change of Ownership</b>	
06/17/16	A deed was recorded for a change in ownership.

<b>Related Building Permits/Business Licenses</b>	
There are no related Building Permits or Business Licenses.	

<b>Pre-Application Meeting</b>	
03/13/23	A pre-application meeting was held with the applicant to review the submittal requirements for a Variance request.

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

<b>Field Check</b>	
08/30/23	A routine field check was conducted by staff in which staff was able to observe a carport located in the front yard, and a portion of a patio cover. Staff was unable to observe the rear yard carport.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.17

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<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 Las Vegas	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 – 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 19.06, the following standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	6,500 SF	7,198 SF	Y
Min. Lot Width	60 Feet	61 Feet	Y
Min. Setbacks – Residential Accessory Structures and a Patio Cover			
• Side (Carport 1)	3 Feet	1 Feet	N*
• Side (Carport 2)	3 Feet	0 Feet	N*
• Side (Patio Cover)	5 Feet	0 Feet	N*
Min. Distance Between Buildings			
• Residential Accessory Structure (Carport 2)	6 Feet	0 Feet	N**
Max. Lot Coverage	50%	68%	N***

\*A Variance (23-0133-VAR1) has been requested to allow for reduced side setbacks.

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\*\*A Variance (23-0133-VAR1) has been requested to allow a zero-foot separation between the Residential Accessory Structure [Carport 2] and the primary dwelling where six is the minimum required.

\*\*\* A Variance (23-0133-VAR1) has been requested to allow a Residential Accessory Structure Coverage of 68 percent of the primary dwelling where 50 percent is the maximum allowed.