

City of Las Vegas

AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: OCTOBER 2, 2024

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: KIMBERLY ANN FARKAS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0313-SUP1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 8

NOTICES MAILED 638 (by City Clerk)

PROTESTS 3

APPROVALS 1

**** CONDITIONS ****

24-0313-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Community Residence (Including Family Community Residence and Transitional Community Residence) use.
2. 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.

Prior to the issuance of a business license, the applicant shall submit

3. 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.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Fire & Rescue

6. Applicant to install fire sprinklers within the building per IFC chapter 9 (as amended), as this is a change of use.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Special Use Permit request for a proposed Community Residence (Including Family Community Residence and Transitional Community Residence) use at 4229 Beth Avenue.

ISSUES

- The Community Residence (Including Family Community Residence and Transitional Community Residence) use is a conditional use in the R-1 (Single Family Residential) zoning district.
- A Special Use Permit is requested as the applicant fails to meet Conditional Use Regulation #1, which requires a 660-foot distance separation from any other existing Community Residence use. There is an existing Community Residence (Including Family Community Residence and Transitional Community Residence) located approximately 630 feet away, therefore, staff does not support the request.
- The submitted floor plan depicts a conversion of the garage to living space and storage. No building permits were found for a garage conversion at the subject property, therefore a Code Enforcement case (#CE24-06715) was processed to ensure the property is brought into compliance.

ANALYSIS

The subject site is zoned R-1 (Single Family Residential) and is subject to Title 19 development standards. The subject residence is a four-bedroom, three-bathroom, single-story detached residential home. Surrounding properties to the north, south, east, and west are developed with detached single-family homes. Per the submitted justification letter, the proposed Community Residence will provide a living arrangement to accommodate up to 10 unrelated individuals diagnosed with Alzheimer's disease. The proposed facility will operate 24 hours a day and will have three staff members that will not reside in the residence. Adequate parking is provided on site, as two parking spaces are provided on the existing driveway where two parking spaces are required for the dwelling. The submitted floor plan depicts a conversion of the garage to living space and storage. No building permits were found for a garage conversion at the subject property, therefore a Code Enforcement case (#CE24-06715) was processed to ensure the property is brought into compliance.

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The Community Residence (Including Family Community Residence and Transitional Community Residence) use is a Conditional use in the R-1 (Single Family Residential) zoning district. The proposed location does not meet Conditional Use Regulation #1, which requires Community Residences to be at least 660 feet away from one another. A Community Residence is currently licensed at 4325 West Lake Mead Boulevard, which is 630 feet away from the subject site. Pursuant to Title 19.12.040, when one or more Conditional Use Regulations cannot be met, a Special Use Permit is required to establish the use, which staff does not support.

Per Title 19.12, the Community Residence (Including Family Community Residence and Transitional Community Residence) use is defined as, "A residential family-like living arrangement for 5 to 10 unrelated individuals with disabilities who are in need of the mutual support furnished by other residents, as well as the support services, if any, provided by the operator of the Community Residence. Residents may be self-governing or supervised by a sponsoring entity or its staff which furnishes habilitative or rehabilitative services related to the needs of the residents. Interrelationships among residents are an essential component of a Community Residence. A Community Residence shall be considered a residential use of property for purposes of all zoning and building codes. However, the Fire Marshal, pursuant to and consistent with the City's Fire Code, may require enhanced fire protection, including the installation of fire sprinklers and other mitigating measures, where one or more residents has a lessened ability to ambulate adequately. The use includes a Family Community Residence and a Transitional Community Residence, but does not include any of the following:

1. Senior Citizen Apartment;
2. Individual Care Center;
3. Convalescent Care Facility/Nursing Home;
4. Facility for Transitional Living for Released Offenders;
5. Facility to Provide Testing, Treatment, or Counseling for Drug and Alcohol Abuse;
6. Hospice;
7. Sex Offender Counseling Facility;
8. Boarding House or Rooming House;
9. Any other group living arrangement for unrelated individuals who are not disabled;
or
10. Any of the following, as defined by NRS Chapter 449:
 - a. Facilities for the Treatment of Drug and Alcohol Abuse;
 - b. Modified Medical Detoxification Facilities;
 - c. Transitional Living Facilities for Released Offenders;
 - d. Facility for the Treatment of Narcotics; or
 - e. Community Triage Center."

The Minimum Conditional Use Regulations for this use include:

1. Except as otherwise provided in Regulations 2 and 3, a Community Residence may not be located closer than 660 feet to any other Community Residence.

The proposed use does not meet this regulation, as there is another Community Residence approximately 630 feet northwest from the subject site, therefore a Special Use Permit is required.

2. Where there is a street, freeway or drainage channel at least 100 feet wide between the proposed Community Residence and an existing Community Residence, the minimum distance separation requirement is reduced to 100 feet.

There are no streets, freeways or drainage channels at least 100 feet wide between the proposed Community Residence and an existing Community Residence; therefore, this regulation is not applicable.

3. When the population of proposed Community Residence is of such a nature that its location must be kept confidential for it to function successfully, such as a Community Residence for victims of domestic abuse, the minimum distance separation requirements set forth in Regulations 1 and 2 above shall not apply.

This regulation is not applicable as the proposed use is not confidential in nature.

4. A maximum of 2 persons who function as facility operator or support staff may reside in a Community Residence without being counted toward the 10-resident limit established for that use. Resident operator/support staff in excess of 2 shall be counter toward the 10-person limit.

The proposed use meets this regulation, as the applicant is proposing to house up to 10 individuals and no staff will reside in the residence.

5. A Community Residence shall comply with all public health and safety requirements including all Building and Fire Code requirements for the dwelling type in question.

The proposed use will be subject to Building and Fire Code requirements, ensuring the protection of public health and safety.

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6. In Federal or State law or regulations require the proposed Community Residence to be licensed or certified, then the applicant must obtain that required license or certification before commencing operation of the Community Residence.

If approved, the applicant will need to obtain a license from the State of Nevada.

7. When located in an O, C-1 or C-2 Zoning District, a Community Residence may not be established unless it is part of a mixed-use development.

This regulation does not apply, as the subject site is located in the R-1 (Single Family Residential) zoning district.

8. The operator of the Transitional Community Residence:
- a. Must require residents to be actively and continuously enrolled in an offsite support program, including without limitation Alcoholics Anonymous or an equivalent program;
 - b. Must prohibit the use of alcohol and illegal drugs by residents; and
 - c. Upon request and with reasonable notice, must produce evidence satisfactory to the Director or the Code Enforcement Manager that residents are in compliance with this Regulation.

This regulation is not applicable, as the proposed use is not a Transitional Community Residence.

9. Occupancy within a Community Residence shall not be made available to any individual whose tenancy would constitute a direct threat to the health and safety of individuals or would result in substantial physical damage to the property of others. The fact that a person is sentenced or referred to a Transitional Community Residence by a judge does not, without other evidence of a person's actual danger to other persons or property, establish that the person is a direct threat to the health and safety of others.

This regulation will be enforced when obtaining licensing for the proposed Community Residence.

10. The Community Residence must be consistent with the scale and architectural character of the neighborhood.

The proposed use meets this regulation as no exterior changes have been proposed and the existing single-family residence will remain compatible with the architectural character of the neighborhood if approved.

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11. The Special Use Permit provisions of LVMC 19.12.040(B) shall not apply to Regulations 5 through 10 above.

Regulations 5 through 10 above are mandatory and must be met to be eligible for a Special Use Permit.

12. In case of a Special Use Permit application that is filed as a consequence of not qualifying for conditional use treatment under Regulations 1 and 2 above, the application must be approved unless the Planning Commission or City Council determines that one or more of the following conditions would occur:
- a. The building to be occupied as a Community Residence would be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood.
 - b. The proposed Community Residence, together with existing Community Residences, would alter the residential character of the neighborhood by creating an institutional atmosphere due to the concentration of the Community Residences on a block or adjoining blocks; or
 - c. The application or Community Residence does not or would not comply with Regulations 5 through 10 above.

Staff is recommending denial of the request in accordance with section "b" as the proposed Community Residence would increase the concentration of Community Residences since Regulation #1 is not met. If approved, it will be subject to conditions.

FINDINGS (24-0313-SUP1)

In order to approve a Special Use Permit application, per Title 19.16.110(L) the Planning Commission and City Council must affirm the following:

1. **The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The proposed land use is not able to be conducted in a manner that is harmonious and compatible with the existing surrounding residential uses as there is an established Community Residence located within 660 feet of the subject site.

- 2. **The subject site is physically suitable for the type and intensity of land use proposed.**

The subject site is not suitable for the proposed use, as there is already an established Community Residence located within the required distance separation between similar uses in order to avoid an over saturation of uses within a residential neighborhood.

- 3. **Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

Beth Avenue is a 50-foot Local Street and is adequate in side to meet the needs of the proposed use.

- 4. **Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

Approval of this Special Use Permit would be inconsistent with the General Plan as it would place a second Community Residence that does not meet minimum distance separation requirements for this use.

- 5. **The use meets all of the applicable conditions per Title 19.12.**

The proposed Community Residence (Including Family Community Residence and Transitional Community Residence) use fails to meet Conditional Regulation #1, prompting this Special Use Permit request, which staff does not support.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
08/13/24	The Planning Commission voted (6-0) to recommend APPROVAL on a Land Use Entitlement project request FOR A PROPOSED COMMUNITY RESIDENCE (INCLUDING FAMILY COMMUNITY RESIDENCE AND TRANSITIONAL COMMUNITY RESIDENCE) USE at 4229 Beth Avenue (APN 139-19-215-081), R-1 (Single Family Residential) Zone, Ward 5 (Crear).
08/27/24	A Code Enforcement case (#CE24-06715) was processed for unpermitted garage conversion at 4229 Beth Avenue.

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Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.	
09/18/24	The City Council voted (7-0) to HOLD IN ABEYANCE a Land Use Entitlement project request FOR A PROPOSED COMMUNITY RESIDENCE (INCLUDING FAMILY COMMUNITY RESIDENCE AND TRANSITIONAL COMMUNITY RESIDENCE) USE at 4229 Beth Avenue (APN 139-19-215-081), R-1 (Single Family Residential) Zone, Ward 5 (Crear).

Most Recent Change of Ownership	
04/29/24	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
09/18/90	A building permit (#90083204) was issued for a room addition at 4229 Beth Avenue.
04/15/94	A building permit (#94327289) was issued for rehabilitation of a single family dwelling at 4229 Beth Avenue.
03/19/97	A building permit (#97005570) was issued for a remodel and enclosure at 4229 Beth Avenue.
11/18/97	A building permit (#97023174) was issued for a wood fence at 4229 Beth Avenue.

Pre-Application Meeting	
06/11/24	A pre-application meeting was held with the applicant and the submittal requirements for a Special Use Permit were discussed.

Neighborhood Meeting	
A neighborhood meeting was not required; however, a voluntary neighborhood meeting was held on July 15 th , 2024 at West Las Vegas Library to discuss the proposed Special Use Permit request. Staff did not attend.	

Field Check	
07/03/24	Staff conducted a routine field check and observed an existing single-family residential dwelling. No issues were noted.

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Details of Application Request	
Site Area	
Net Acres	0.13

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

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Twin Lakes	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District - 70 Feet	Y
Other Plans or Special Requirements	Compliance
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

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Beth Avenue	Local Street	Title 13	50	Y

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Community Residence	1 unit	2 spaces per dwelling unit	2				
TOTAL SPACES REQUIRED			2		2		Y
Regular and Handicap Spaces Required			2	N/A	2	N/A	Y