



AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: SEPTEMBER 18, 2024
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT/OWNER: MELISSA KOSHIR AND JONATHAN MARGALIT

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0040-VAR1	Staff recommends DENIAL, if approved subject to conditions:	24-0040-SUP1
24-0040-SUP1	Staff recommends DENIAL, if approved subject to conditions:	24-0040-VAR1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 21

NOTICES MAILED 117 (by City Clerk)

PROTESTS 5

APPROVALS 2

**** CONDITIONS ****

24-0040-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow a nine-foot corner side yard setback where 15 feet is required for a proposed Residential, Accessory Dwelling Unit.
2. A Variance is hereby approved, to allow a six-foot rear yard setback where 15 feet is required for a proposed Patio Cover.
3. 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.
4. 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.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

24-0040-SUP1 CONDITIONS

Planning

1. Landscaping such as a live hedge or trees, shall be planted to screen the Residential, Accessory Dwelling Unit [Casita] along the south and east property lines.
2. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Residential, Accessory Dwelling Unit use.

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3. Approval of and conformance to the Conditions of Approval for Variance (24-0040-VAR1) shall be required, if approved.
4. 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.
5. 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.
6. 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.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

8. Prior to the issuance of permits, coordinate with City of Las Vegas Sanitary Sewer Billing Section of the Department of Community Development regarding the initial sewer connection fee for additional living space. If it is determined that this addition requires an increase in sewer fees, comply with the regulations governing sewer fees for connection and usage.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a proposed Residential, Accessory Dwelling Unit and Patio Cover that do not meet Title 19 development standards for setbacks at 1421 Marina Del Rey Court.

ISSUES

- A Residential, Accessory Dwelling Unit use is permitted in the R-E (Residence Estates) zoning district with the approval of a Special Use Permit. Staff does not support this request.
- A Variance is requested to allow a nine-foot corner side yard setback where 15 feet is required for a proposed Residential, Accessory Dwelling Unit. Staff does not support this request.
- A Variance is requested to allow a six-foot rear yard setback where 15 feet is required for a proposed Patio Cover. Staff does not support this request.
- A condition of approval was added to adequately screen the proposed Residential, Accessory Dwelling Unit [Casita] from view along the south and east property lines.

ANALYSIS

The subject site is zoned R-E (Residence Estates) with a DR (Desert Rural Density Residential) land use designation where it is subject to Title 19 development standards. The subject site is currently developed with an existing single-family dwelling and is surrounded by existing single-family dwellings to the west, north, and east. The submitted plans indicate a proposed 834 square-foot Residential, Accessory Dwelling Unit that encroaches six feet into the required 15 feet corner side yard setback, prompting this Variance request for a nine-foot corner side yard setback. Per the submitted justification letter, the proposed Residential, Accessory Dwelling Unit will provide housing for the applicant's parents to maintain their independence. Additionally, the proposed Residential, Accessory Dwelling Unit is proposed within the corner side yard setback primarily due to "energy efficiency" and the "protection provided by the existing intense landscape and block wall."

The Residential, Accessory Dwelling Unit use is defined as, "An accessory structure which is located on the same residential parcel as a principal dwelling and which, as an ancillary use, provides living quarters, including full kitchen facilities, for the occupants of the principal dwelling or their tenants, domestic employees or temporary guests."

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The Minimum Special Use Permit Requirements for this use include:

- *1. In the U, R-E, R-D and R-1 Zoning Districts, the minimum size of the lot or parcel must be at least 6500 square feet.

The proposed use is located on a parcel that is 22,215 square feet, which exceeds the minimum requirement of 6,500 square feet. Therefore, this requirement is met. Note that requirements 1 is nonwaivable.

- *2. No more than one Residential, Accessory Dwelling Unit is permitted on a single lot. The unit is subject to the development standards if the zoning district in which it is located; provided, however, that in no case shall the unit exceed the total gross floor area of the primary dwelling unit.

The proposed use meets this requirement as only one Residential, Accessory Dwelling Unit is proposed as part of this Special Use Permit request. Additionally, the floor area of the primary dwelling unit is 2,624 square feet, whereas the proposed Residential Accessory Structure is 834 square feet – which does not exceed the floor area of the primary dwelling unit. Note that requirement 2 is nonwaivable.

3. Unless the principal dwelling is owner-occupied, a Residential, Accessory Dwelling Unit may not be offered or occupied as a rental unit.

While the principal dwelling will remain owner-occupied, the applicant indicates in the submitted justification letter that the proposed Residential, Accessory Dwelling unit will be used to house immediate family members and will not be offered or occupied as a rental unit. Therefore, this requirement has been met.

Pursuant to Title 19.12, one additional parking space must be provided beyond the number of spaces normally required for a Residential, Accessory Dwelling Unit. As there is an existing Residential, Single Family Detached use on the property, a total of three spaces would be required. The proposed development meets this requirement, as the submitted plans indicate a parking garage that can accommodate up to three vehicles.

The submitted site plan also depicts a proposed Patio Cover that has a six-foot rear yard setback. Pursuant to Title 19.06.060, Patio Covers shall be at least 15 feet from the rear property line. The applicant has provided no justification for the placement of the proposed Patio Cover.

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Staff finds the subject site to not be physically suitable for the intensity of the land use proposed as evidence by the requested Variance. 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 is recommending denial of the Special Use Permit and associated Variance. If approved, both entitlements will be subject to conditions.

FINDINGS (24-0040-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 proposing a Residential, Accessory Dwelling Unit within the corner side yard and Patio Cover within the rear yard setback. Moving the Residential, Accessory Dwelling Unit and Patio Cover such that setbacks are met would meet 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.

FINDINGS (24-0040-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:

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- 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 Residential, Accessory Dwelling Unit use cannot 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. This is evidenced by the requested Variance for corner side yard setback requirements.

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

The subject site is not physically suitable for the intensity of the proposed Residential, Accessory Dwelling Unit use. This is evidenced by the requested Variance of corner side yard setback requirements, which staff cannot support.

- 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.**

Site access is provided by Marina Del Rey Court, a private street as defined by the final map for Del Rey Estates, a 10-lot single-family residential subdivision, and is adequate in size to meet the requirements 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 the Special Use Permit will be subject to building permit review, which will ensure that the proposed development does not compromise the public health, safety, and welfare or the overall objectives of the General Plan.

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

The proposed Residential, Accessory Dwelling Unit use meets all of the applicable conditions per Title 19.12.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
11/23/98	The City Council approved a General Plan Amendment (GPA-0027-98) to amend a portion of the Southwest Sector of the General Plan on properties bounded by the Holmby Avenue Drainage Alignment, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, From R (Rural Density Residential To DR (Desert Rural Density Residential).
04/09/24	<p>The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project requests:</p> <p>24-0040-VAR1 - VARIANCE - TO ALLOW A SIX-FOOT CORNER SIDE YARD SETBACK WHERE 15 FEET IS REQUIRED FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT [CASITA]</p> <p>24-0040-SUP1 - SPECIAL USE PERMIT - FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT USE</p>
05/14/24	<p>The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project requests:</p> <p>24-0040-VAR1 - VARIANCE - TO ALLOW A SIX-FOOT CORNER SIDE YARD SETBACK WHERE 15 FEET IS REQUIRED FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT [CASITA]</p> <p>24-0040-SUP1 - SPECIAL USE PERMIT - FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT USE</p>
06/18/24	<p>The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project requests:</p> <p>24-0040-VAR1 –VARIANCE – TO ALLOW A SIX-FOOT CORNER SIDE YARD SETBACK WHERE 15 FEET IS REQUIRED FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT [CASITA]</p> <p>24-0040-SUP1 – SPECIAL USE PERMIT – FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT USE</p>

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
08/13/24	<p>The Planning Commission (6-0 vote) recommends APPROVAL on the entire Land Use Entitlement project. Staff recommends DENIAL on the entire Land Use Entitlement project. For possible action on an Appeal of the Approval by the Planning Commission of the following Land Use Entitlement project requests on 0.51 acres at 1421 Marina Del Rey Court (APN 163-03-511-001), R-E (Residence Estates) Zone, Ward 1 (Knudsen).</p> <p>24-0040-VAR1 - VARIANCE - TO ALLOW A NINE-FOOT CORNER SIDE YARD SETBACK WHERE 15 FEET IS REQUIRED FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT [CASITA] AND TO ALLOW A SIX-FOOT REAR YARD SETBACK WHERE 15 FEET IS REQUIRED FOR A PROPOSED PATIO COVER</p> <p>24-0040-SUP1 - SPECIAL USE PERMIT - FOR A PROPOSED RESIDENTIAL, ACCESSORY DWELLING UNIT USE</p>

<i>Most Recent Change of Ownership</i>	
08/26/21	A deed was recorded for a change in ownership.

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

<i>Pre-Application Meeting</i>	
01/17/24	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Special Use Permit and Variance.

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

<i>Field Check</i>	
02/08/24	Staff conducted a routine field check of the subject site and observed an existing single-family dwelling. Nothing of concern was noted.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.51

<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	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Charleston	N/A
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
RP-O (Rural Preservation Overlay) District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
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 Title 19.06.060, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	18,000 SF	22,215 SF	Y
Min. Lot Width	100 Feet	129 Feet	Y
Min. Setbacks (Accessory Structures) <ul style="list-style-type: none"> • Side • Corner • Rear 	5 Feet 15 Feet 5 Feet	128 Feet 9 Feet 7 Feet	Y N* Y
Min. Setbacks (Patio Covers) <ul style="list-style-type: none"> • Side • Rear 	10 Feet 15 Feet	15 Feet 6 Feet	Y N*
Min. Distance Between Buildings	6 Feet	6 Feet	Y
Max. Lot Coverage	N/A	31%	N/A
Max. Building Height	35 Feet	13 Feet	Y

*A Variance (24-0040-VAR1) is requested to allow a nine-foot corner side yard setback where 15 feet is required for a proposed Residential, Accessory Dwelling Unit and to allow a six-foot rear yard setback where 15 feet is required for a proposed Patio Cover

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	
Residential Accessory Dwelling Unit	1 Dwelling Unit	2 per Dwelling Unit	2				
Residential, Accessory Dwelling Unit	834 SF	One additional parking space must be provided beyond the number of spaces normally required.	1				
TOTAL SPACES REQUIRED			3		3		Y
Regular and Handicap Spaces Required			3	0	3	0	Y