

**AGENDA MEMO - COMMUNITY DEVELOPMENT****CITY COUNCIL MEETING DATE: SEPTEMBER 18, 2024****DEPARTMENT: COMMUNITY DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: ML TRUST, ET AL**

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

| CASE NUMBER | RECOMMENDATION | REQUIRED FOR APPROVAL |
|---------------------|-------------------------------------------------------------|------------------------------|
| 24-0004-VAR1 | Staff recommends DENIAL, if approved subject to conditions: | |

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

8

NOTICES MAILED

278 (by City Clerk)

PROTESTS

N/A

APPROVALS

1

**** CONDITIONS ****

24-0004-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a 59 percent rear yard coverage where 50 percent is the maximum allowed for an existing accessory structure [casita].
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.
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.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance in order to keep an existing accessory structure [casita] that exceeds the maximum rear yard coverage allowed at 317 Paul Avenue.

ISSUES

- The applicant has submitted plan revisions (date stamped 08/20/24), reducing the size of the casita in order to meet the 50 percent rear yard requirement. As such, the Variance is no longer needed and the applicant will be withdrawing the request.
- This request is the result of an open Code Enforcement Case #CE23-01183 for possible construction without a building permit. The case remains open pending the results of this Variance request.

ANALYSIS

The subject site is zoned R-2 (Medium-Low Density Residential) and developed with an existing single-family dwelling. Development is subject to Title 19 development standards. The purpose of the R-2 District is to establish lots primarily for medium to low density single family detached units and duplex units. The applicant requests the subject Variance to keep an existing 700 square-foot accessory structure [casita] that exceeds the maximum allowed rear yard area coverage.

Per Title 19, a Residential Accessory Structure is defined as, "An accessory structure which is located on the same lot as a principal structure, is detached therefrom, is incidental or subordinate thereto, and does not qualify as an "Residential, Accessory Dwelling Unit." It is listed as a Conditional Use in the R-2 District. The subject structure adheres to this requirement as the submitted floor plan depicts two bedrooms with wet bars, two bathrooms and a laundry room. No full kitchen is depicted. Per the submitted justification letter, the structure will be used for family.

Staff finds the Variance request to be a self-imposed hardship that is outside the realm of NRS Chapter 278 for granting of Variances. Therefore, staff recommends denial. If approved, it will be subject to building permit review.

Staff Report Page Two
September 18, 2024 - City Council Meeting

FINDINGS (24-0004-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 a casita without building permits that fails to comply with Title 19 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> | |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/28/23 | Code Enforcement Case #CE23-01183 was opened regarding possible construction without building permits at the subject site. |
| 7/9/24 | The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW A 62 PERCENT REAR YARD COVERAGE WHERE 50 PERCENT IS THE MAXIMUM ALLOWED FOR AN EXISTING ACCESSORY STRUCTURE [CASITA] on 0.16 acres at 317 Paul Avenue. |

Staff Report Page Three
September 18, 2024 - City Council Meeting

| Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc. | |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/13/24 | The Planning Commission voted (6-0) to recommend DENIAL on the following Land Use Entitlement project request TO ALLOW A 62 PERCENT REAR YARD COVERAGE WHERE 50 PERCENT IS THE MAXIMUM ALLOWED FOR AN EXISTING ACCESSORY STRUCTURE [CASITA] on 0.16 acres at 317 Paul Avenue (APN 139-22-411-053), R-2 (Medium-Low Density Residential) Zone, Ward 5 (Crear). |

| Most Recent Change of Ownership | |
|----------------------------------------|------------------------------------------------|
| 09/18/19 | A deed was recorded for a change in ownership. |

| Related Building Permits/Business Licenses | |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/05/23 | Building Permit #R23-16303 was processed for an accessory structure. The permit was denied pending the result of the subject Variance request. |

| Pre-Application Meeting | |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 01/03/24 | Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a Variance. |

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

| Field Check | |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 05/30/24 | Staff conducted a routine field check and found an existing single-family dwelling. A casita was observed in the rear yard area. |

| Details of Application Request | |
|---------------------------------------|------|
| Site Area | |
| Net Acres | 0.16 |

Staff Report Page Four
September 18, 2024 - City Council Meeting

| <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 | ML (Medium Low Density Residential) | R-2 (Medium-Low Density Residential) |
| North | Residential, Single Family, Detached | ML (Medium Low Density Residential) | R-2 (Medium-Low Density Residential) |
| South | Towing & Impound Yard | GC (General Commercial) | C-2 (General Commercial) |
| East | Residential, Single Family, Detached | ML (Medium Low Density Residential) | R-2 (Medium-Low Density Residential) |
| West | Residential, Single Family, Detached | ML (Medium Low Density Residential) | R-2 (Medium-Low Density Residential) |

| <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 (175 Feet) | 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 |

Staff Report Page Five
September 18, 2024 - City Council Meeting

DEVELOPMENT STANDARDS

Pursuant to Title 19.06, the following standards apply:

| Standard | Required/Allowed | Provided | Compliance |
|--------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------|
| Min. Lot Size | 6,500 SF | 6,969 SF | Y |
| Min. Lot Width | N/A | 60 Feet | N/A |
| Min. Setbacks | | | |
| • Side | 3 Feet | 5 Feet | Y |
| • Rear | 3 Feet | 3 Feet | Y |
| Min. Distance Between Buildings | 6 Feet | 6 Feet | Y |
| Max. Accessory Structure Size and Coverage | Not to exceed 50% of the floor area of the principal dwelling unit | 46% | Y |
| | The aggregate total of the ground floor areas of all accessory buildings shall not cover more than 50 percent of the rear yard area. | 50% | Y |
| Max. Building Height | Not to exceed 2 stories, 35 feet in height or the height of the principal dwelling unit, whichever is less | 13 Feet | Y |