

|   |  |
|---|--|
| <b>CITY OF LAS VEGAS</b>  |  |
| <b>ONE MOTION / ONE VOTE</b>  |  |
|  | <b>Community Development</b><br><b>Case Planning Division</b><br><b>495 South Main Street, 3rd Floor</b><br><b>Las Vegas, Nevada 89101</b><br><b>(702) 229-6301 Phone (702) 464-7499 Fax</b> |

CASE: 24-0640-VAR1  
SUBJECT: APPLICANT/OWNER: HARBOR COVE PROPERTIES, LLC

The above item has been placed on the One Motion/One Vote portion of the Planning Commission Agenda for the **APRIL 8, 2025** Planning Commission meeting. All of these items will be placed at the beginning of the agenda. The Chairman of the Planning Commission will open them at the same time.

Enclosed please find the proposed conditions of approval. If you agree to these conditions, please sign this form and fax it to **Brianna Pascual** at (702)464-7499 or e-mail to [bpascual@lasvegasnevada.gov](mailto:bpascual@lasvegasnevada.gov) and **Jessica Roybal** to [jroybal@lasvegasnevada.gov](mailto:jroybal@lasvegasnevada.gov). If there is no one present at the Planning Commission meeting who wants to discuss this item, you will not be called to the podium to discuss the case. However, you must be present in case any Planning Commissioner or member of the public wants to discuss the item. If you have any questions, please contact my office at (702) 229-2569.

Please sign and date that you have read and agree to the conditions and return to our office by 5:00PM **MONDAY, APRIL 7, 2025**.

 \_\_\_\_\_ 4/4/2025  
Signature Date

ALAN PAUL HARLEY  
Please Print Name

HARBOR COVE PROPERTIES  
Company Name

Submitted after final agenda

RECEIVED 04/07/25  
04/08/25 PC  
ITEM 13

Sincerely,  
  
Nicole Eddowes  
Community Development Coordinator  
Case Planning Division

T. James Truman

Law Offices  
**T. JAMES TRUMAN & ASSOCIATES**

A Professional Corporation  
3654 North Rancho Drive, Suite 101  
Las Vegas, Nevada 89130-3149

[www.trumalegal.com](http://www.trumalegal.com)

April 8, 2025

Telephone  
(702) 256-0156

Telecopier  
(702) 396-3035

City of Las Vegas – Dept. Of Community Development  
Planning Commission  
[planningcomments@lasvegasnevada.gov](mailto:planningcomments@lasvegasnevada.gov)

RECEIVED  
APR 08 2025  
Dept of Planning  
City of Las Vegas

**Re Opposition to Variance Request 24-0640-VAR1**

City of Las Vegas Planning Department:

My office represents Alejandro (“Alex”) Maldonado in his opposition to the above variance request. My client joins in, and adopts by reference, the other currently filed objections by other neighbors and concerned citizens. In addition, because my client’s property is directly across the street from the applicant, my client will be the most impacted by the change in the property requested in the current variance request.

The applicant appears to be operating a small construction company from his residence. The Nevada Secretary of State records indicate “P& P Property Services, LLC” has a business address of 2980 Harbor Cove Drive. See attached printout from Silverflume.com. This is consistent with my client’s observations. Every day there are a number of commercial and construction vehicles, workers, machinery and equipment at the applicant’s property. Most days there are workers fabricating or working on construction-related projects in the garage or drive way of the applicant’s property.

I am attaching just a few of the hundreds of photographs my client has taken of the almost daily activities conducted in the applicant’s garage or driveway. Similar photographs can also be seen on Attachment 7 of the Executive Summary of Objections submitted in this matter by Robert Krimmer (See, Exhibit 7, “Photos of Applicant Conducting Commercial Construction Activities From His Residence”).

The clear purpose in requesting this variance is to increase the size of the applicant’s fenced yard so he can park and store additional equipment, vehicles and materials inside his property. Importantly, if the application is granted, the applicant will expand the applicant’s business operations at its property. This will increase the amount of construction-related traffic in the neighborhood as additional vehicles and equipment travel to and from the property and occupy the property. All of this is contrary to the current residential nature and character of the neighborhood, and the Planning Commission should disapprove of this application.

On behalf of my client, I would respectfully request that you deny the Variance Request 24-

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P

April 8, 2025  
Page 2

0640-VARI.

Sincerely,

T. JAMES TRUMAN & ASSOCIATES  
A PROFESSIONAL CORPORATION

A handwritten signature in black ink, appearing to read 'T. James Truman', with a stylized flourish at the end.

T. James Truman, Esq.

TJT/br  
Enclosures  
cc: Client

**Entity Information**

**Entity Information**

**Entity Name:**

P & P PROPERTY SERVICES LLC

**Entity Number:**

E0001372017-7

**Entity Type:**

Domestic Limited-Liability Company (86)

**Entity Status:**

Active

**Formation Date:**

01/03/2017

**NV Business ID:**

NV20171002255

**Termination Date:**

**Annual Report Due Date:**

1/31/2026

**Compliance Hold:**

**Series LLC:**

**Restricted LLC:**

**Registered AGENT INFORMATION**

**Name of Individual or Legal Entity:**  
 Alan Paul Harvey

**Status:**  
 Active

**CRA Agent Entity Type:**

**Registered Agent Type:**  
 Non-Commercial Registered Agent

**NV Business ID:**

**Office or Position:**

**Jurisdiction:**

**Street Address:**  
 2980 Harbor Cove Drive , Las Vegas, NV, 89128, USA

**Mailing Address:**

**OFFICER INFORMATION**

View Historical Data

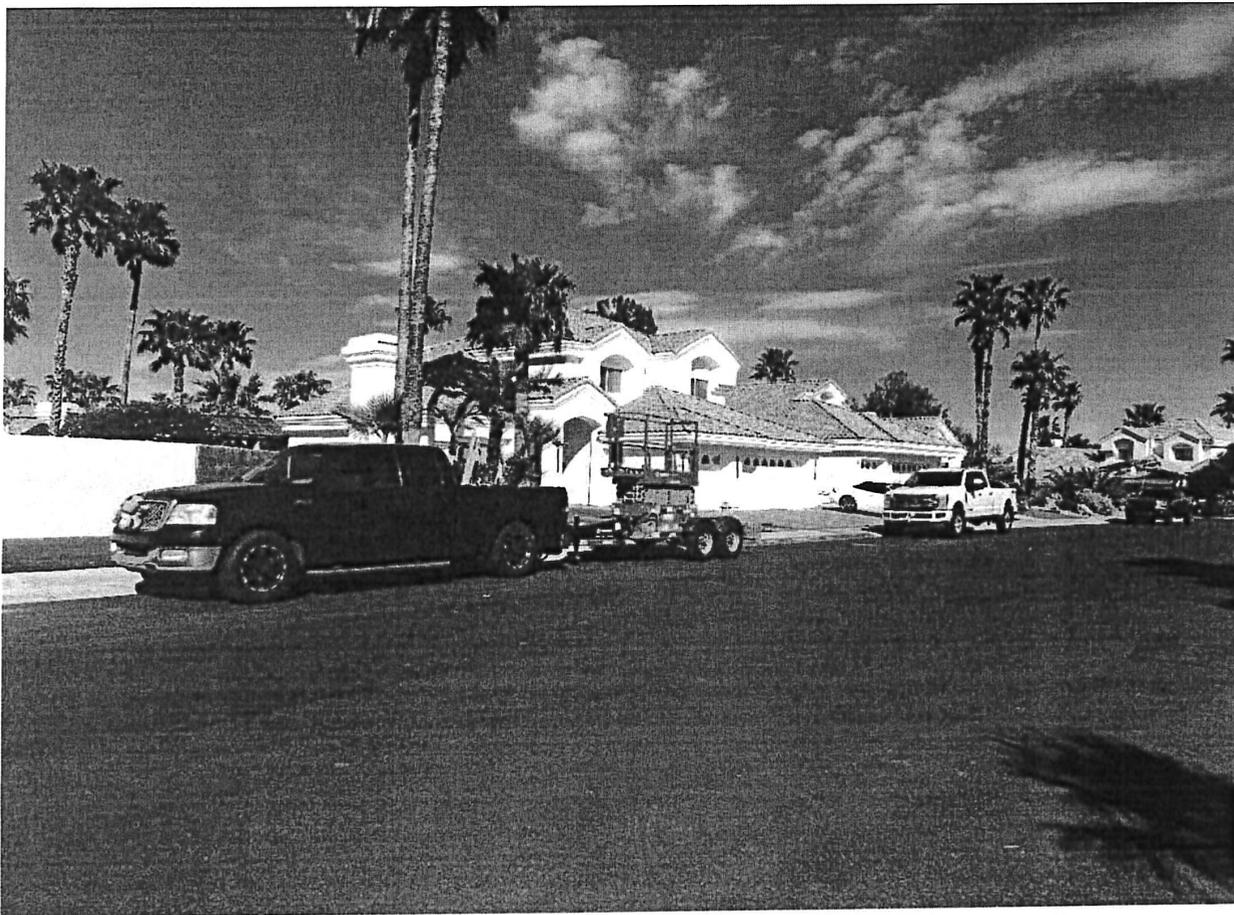
| Title           | Name             | Address   | Last Updated | Status |
|-----------------|------------------|---|--------------|--------|
| Managing Member | PAULINE HARVEY   | 2980 HARBOR COVE DRIVE, Las Vegas, NV, 89128, USA | 01/22/2024   | Active |
| Managing Member | ALAN PAUL HARVEY | 2980 HARBOR COVE DRIVE, LAS VEGAS, NV, 89128, USA | 11/14/2019   | Active |

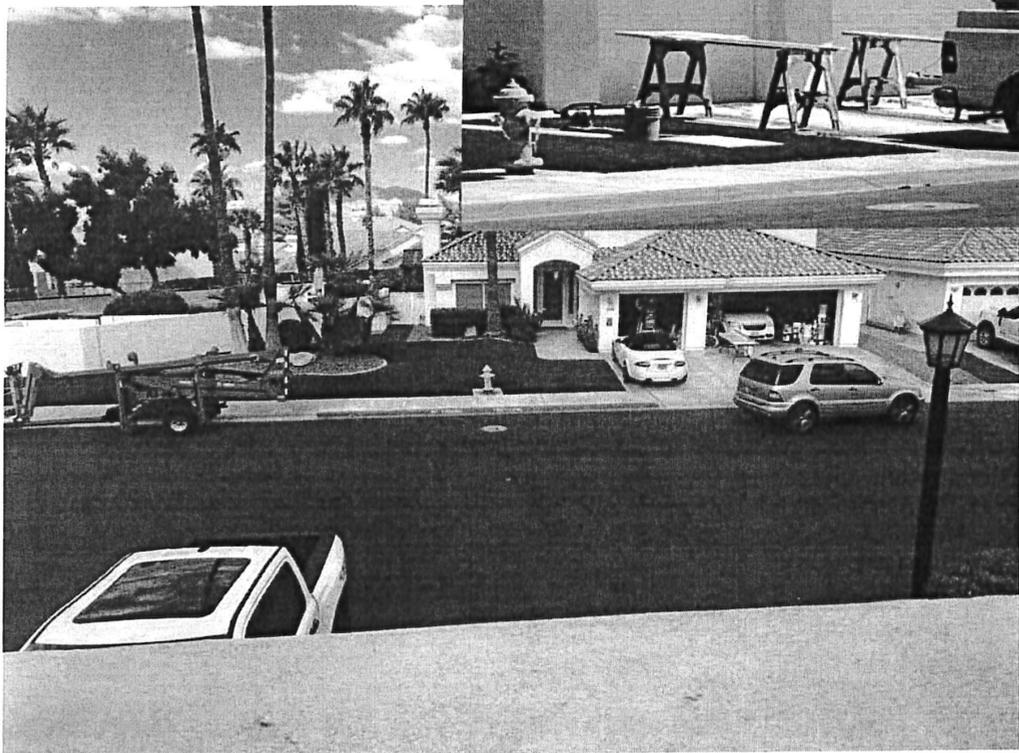
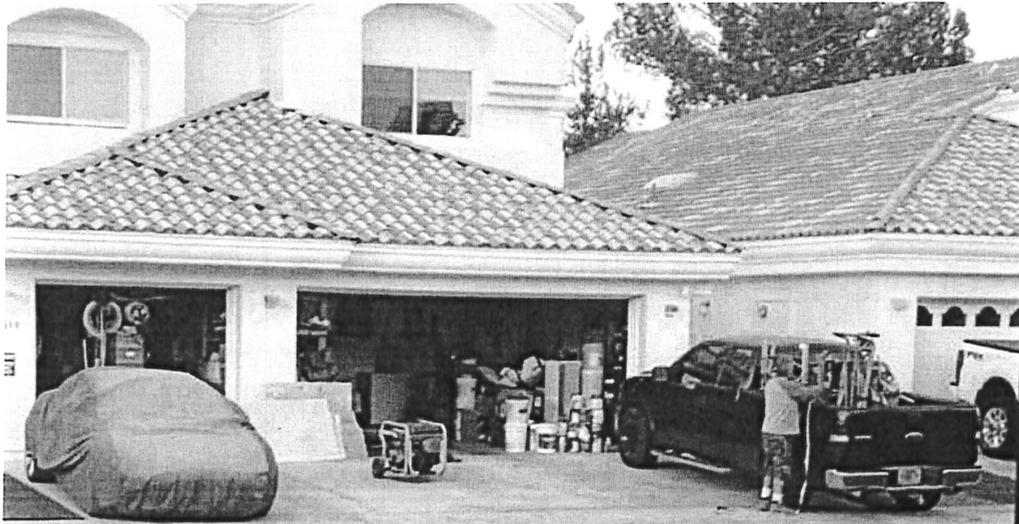
Page 1 of 1, records 1 to 2 of 2

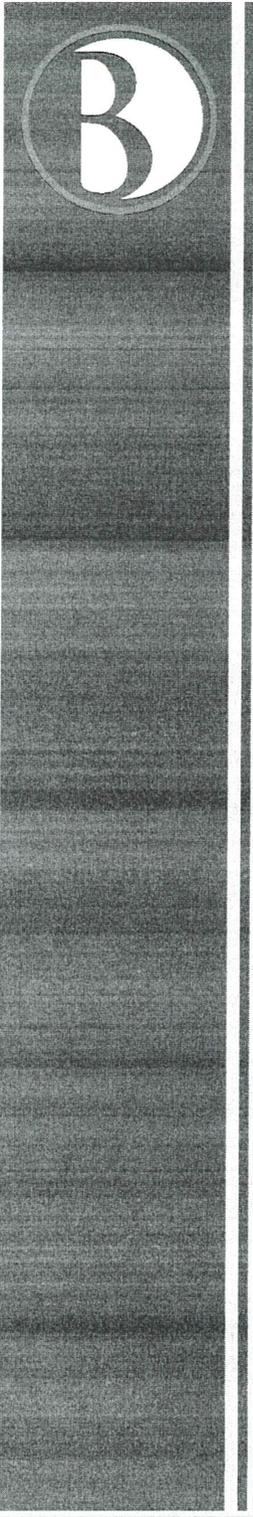
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RECEIVED

APR 07 2025

Dept of Planning  
City of Las Vegas

**David Bray, Esq.**  
*Bray Law Group LLC*

1180 N. Town Center Dr., Ste. 100  
Las Vegas, NV 89144  
702-623-0046  
BrayLawGroup.com  
[david@braylawgroup.com](mailto:david@braylawgroup.com)

Date: March 26, 2025

**BY ELECTRONIC MAIL AND U.S. CERTIFIED MAIL, RETURN  
RECEIPT REQUESTED**

City of Las Vegas – Planning Commission  
495 South Main Street, 3<sup>rd</sup> Floor  
Las Vegas, NV 89101  
[planningcomments@lasvegasnevada.gov](mailto:planningcomments@lasvegasnevada.gov)

**Re: Variance Request 24-0640-VAR1 / Harbor Cover Homeowners  
Association Opposition to Variance Request**

City of Las Vegas Planning Department:

I am writing in my capacity as corporate counsel for the Harbor Cove Homeowners Association (hereinafter referred to as the "Association"). The Association has retained my firm to represent its interests in connection with Variance Request 24-0640-VAR1, submitted by Alan Paul Harvey ("Applicant"), which is currently scheduled for a April 8, 2025 hearing before the City of Las Vegas Planning Commission ("Planning Commission").

As an initial matter, the Association respectfully requests that this variance request be removed from the "One Motion - One Vote" portion of the City of Las Vegas Planning Department Agenda. Given the significant procedural deficiencies, lack of compliance with zoning regulations, and substantial community opposition, this matter warrants full consideration and independent discussion before the Planning Commission.

The Applicant seeks approval to construct a front yard wall at 2980 Harbor Cove Dr. Las Vegas, NV 89128 which exceeds the permissible height limitations under Las Vegas Municipal Code (LVMC) 19.06.070. As set forth herein, Applicant's request does not meet the standards for approval under LVMC 19.16.140, is inconsistent with the Governing Documents of the Association and the Desert Shores Master Association and has been met with substantial community opposition. For these reasons, the Association respectfully requests that the Planning Commission deny the variance request in its entirety.

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The Applicant, a homeowner within the Association, submitted an Architectural Review Request in May 2024 seeking approval to construct a front yard wall. At the time of submission, the Association's Board consisted of only three (3) members, including Applicant, who was serving as Board President. Due to his conflict of interest, Applicant recused himself from voting on his own Architectural Review Request. However, the remaining two (2) Board members, David Giudici and Patrick Sampson, were split in their decision—Mr. Giudici voted in favor, while Mr. Sampson explicitly voted against it. Since a majority vote was required for approval, the request failed under the Association's Governing Documents. Attached as Exhibit "1" is a copy of the email from Mr. Sampson confirming his opposition to the approval.

Despite the failure to obtain proper approval, an approval letter was mistakenly issued due to an administrative error. The Association's management team later reviewed the matter and revoked the improper approval, informing the Applicant of the revocation via written correspondence. Attached as Exhibit "2" is a copy of the email informing Applicant of the improper approval being revoked.

Additionally, despite the improper approval outlining that Applicant would also need to receive approval from the Desert Shores Master Association, Applicant never did so. Indeed, attached as Exhibit "3" is a copy of an email from Desert Shores Master Association's community manager confirming that it never received, nor approved the Applicant's request for the construction of the front yard wall.

Further, the Applicant submitted the variance request with the Planning Commission despite multiple procedural deficiencies. The required public notice sign, which was posted on the Applicant's property on February 1, 2025, was subsequently removed without explanation. Despite having actual knowledge that the sign had been removed, the Applicant failed to notify the City of Las Vegas Planning Department. This deprived neighboring homeowners of their right to participate in the process and voice their opposition. A video documenting the removal of the sign by an individual connected to the Applicant's property has been provided to the Association.

Fortunately, this matter has been continued and the requisite signage has since been replaced in connection with the rescheduling of the hearing to April 8, 2025. However, the Applicant's failure to notify the City upon learning that the initial signage had been removed demonstrates a disregard for procedural requirements and transparency.

Additionally, the Association has received signed objection letters from approximately seventy (70) homeowners, representing at least sixty (60) individual addresses within the community. Given the number of vacant, rental, and second homes in the community, this represents a substantial level of homeowner opposition. Not a single homeowner approached by the Association has indicated support for the variance request, underscoring the lack of community support.



## LEGAL ARGUMENT

### **I. APPLICANT FAILS TO MEET THE STANDARDS UNDER TITLE 19**

Under LVMC 19.16.140, a variance may only be granted when:

1. Strict enforcement of the zoning regulation would result in unnecessary hardship;
2. The variance is consistent with the general intent of the zoning code; and
3. The variance would not adversely affect neighboring properties or the public welfare.

In *Enterprise Citizens Action Committee v. Clark County Board of Commissioners*, 112 Nev. 649, 918 P.2d 305 (1996), the Nevada Supreme Court made clear that the burden is on the applicant to demonstrate a legally cognizable hardship and that any approval of a variance must be supported by substantial evidence.. Specifically, the Court emphasized:

“Respondents presented no substantial evidence to the Board which would sustain the Board’s action granting the variance...” *Enterprise*, 112 Nev. at 656. Attached as Exhibit “4” is a copy of the *Enterprise* opinion

In *Enterprise*, the Court noted that a legally sufficient hardship must show that:

- The property owner would be deprived of all beneficial use of the land if the variance were denied;
- The property would suffer a significant decrease in value absent the variance;
- The land cannot yield a reasonable return if used only for its permitted purpose; or
- The land is virtually useless as currently zoned.

None of these conditions are met here.

The Applicant has not submitted any evidence—documentary or testimonial—that would meet even one of these standards. There is no economic analysis, no appraised valuation impact, and no evidence of impracticability or infeasibility in using the land consistent with existing zoning requirements. Instead, the Applicant’s claimed basis for the variance revolves around aesthetic preference and personal privacy concerns, neither of which rise to the level of hardship contemplated under Nevada law.

Indeed, *Enterprise* warns against such vague or conclusory justifications:

“These answers were at most merely conclusory statements that a hardship or difficulty existed... Respondents presented no evidence that they were subjected to exceptional practical difficulties or exceptional and undue hardships...” *Id.* at 657.

This principle applies squarely here. The Applicant’s hardship is entirely self-imposed—Applicant seeks to build a wall exceeding permissible height limits because Applicant ***believes*** it looks better



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or offers more privacy. This is a matter of preference, not necessity. Courts have routinely rejected such arguments as insufficient to support variances. As the *Enterprise* court held:

“[I]t is incumbent upon the property owner to prove what the hardship or difficulty is...” and that conclusory statements are simply not enough. *Id.* at 657.

Further, the *Enterprise* court concluded that a failure to offer evidence beyond personal preference or convenience mandates reversal of the variance:

“[A]t no time did the Board inquire about or did respondents address the issue of why [the claimed conditions] created a hardship or difficulty which warranted the variance... one county commissioner stated that he believed no hardship existed.” *Id.* at 658.

This exact dynamic is present here. The Applicant’s variance request is unsupported by factual evidence and is instead premised on an aesthetic and convenience-based desire to construct a front wall that is inconsistent with existing zoning and incompatible with the surrounding community. Like in *Enterprise*, the Applicant failed to demonstrate any condition that “practically destroys” the value of the land for its permitted use or deprives him of substantial property rights.

This alone demonstrates that the variance request is unsupported by legitimate zoning hardship criteria and that the Applicant has other, more appropriate remedies available through the Association’s enforcement process.

Finally, the Applicant has failed to provide the Planning Department with substantial evidence, as required under *Enterprise*, to satisfy the burden of proof. The Court in *Enterprise* defined “substantial evidence” as:

“Evidence which a reasonable mind might accept as adequate to support a conclusion.” *Id.* at 655.

The Applicant has failed to meet this standard. The record is devoid of any reasonable factual basis upon which this variance could be justified. Like the Board in *Enterprise*, approving this variance would constitute an abuse of discretion and disregard the public planning principles that support zoning uniformity.

This variance request is rooted in aesthetic motivation and ignores both the Association’s and Master Association’s processes. It is a textbook example of a self-imposed hardship, echoing the precise legal flaw condemned in *Enterprise*.

Moreover, the Applicant has attempted to justify his request by arguing that pet owners allow their dogs to relieve themselves on the existing rocks in front of his wall. This argument is entirely unrelated to the necessity of a variance and represents an improper use of zoning exceptions to address a basic enforcement issue. As Board President of the Association, the Applicant has direct authority to enforce community rules and regulations regarding pet waste under the Association’s CC&Rs and its Rules & Regulations.



Indeed, Section 4(c) of the Association's Rules & Regulations provides that:

*Residents walking animals must carry a 'scooper' or some means of removing the waste at all times. All feces are to be immediately removed and properly disposed of.*

Rather than seeking an inappropriate structural modification, the proper course of action would be for the Applicant to utilize the Association's violation process to address the matter. This underscores that the variance is neither necessary nor appropriate under the applicable zoning framework.

## **II. FAILURE TO OBTAIN A VALID ARCHITECTURAL REVIEW REQUEST APPROVAL**

The variance request is procedurally defective because the Applicant failed to obtain proper approval under the Association's CC&Rs. As outlined in the Statement of Facts, the vote on the Architectural Review Request did not receive the required majority approval, rendering the approval invalid. Furthermore, the Desert Shores Master Association never granted its approval, which is required for exterior modifications within the Desert Shores community.

## **III. PRECEDENT AND COMMUNITY CHARACTER IMPACTS**

Both the Association's CC&Rs and LVMC 19.06.020 require that modifications maintain architectural harmony and consistency within the community. If approved, this variance would:

- Set a precedent for future non-compliant structures, leading to inconsistent designs that erode the aesthetic uniformity of Harbor Cove;
- Disrupt the established front-yard setbacks and wall height uniformity within the community; and
- Encourage other homeowners to seek similar exceptions, leading to an increase in unapproved modifications that undermine property values.

The Planning Commission has a duty under LVMC 19.06.020 to ensure that zoning variances do not negatively impact the continuity and integrity of neighborhood development patterns. Likewise, the Association has an obligation under its CC&Rs to ensure architectural modifications do not diminish the community's character.

Granting this variance would violate both of these principles.

## **CONCLUSION**

For the foregoing reasons, the Association respectfully requests that the Planning Commission deny the variance request in its entirety. The Applicant has failed to establish any legally cognizable hardship, has not complied with the required Architectural Review Request approval



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process, and has disregarded multiple procedural safeguards, including proper notice to the community.

Approving this variance would set an unfavorable precedent, encouraging non-compliant structures that diminish the architectural consistency and property values within Harbor Cove. It would also weaken the integrity of zoning regulations and the Association's architectural standards, undermining their role in maintaining community expectations.

Furthermore, the Applicant's stated concerns regarding privacy and pet waste are personal grievances that do not meet the legal definition of an unnecessary hardship under LVMC 19.16.140. As the Association's Board President, the Applicant has the ability to enforce community rules through the established violation process—a variance is neither necessary nor appropriate.

Finally, the Association also understands that a group of homeowners, including Mr. Robert Krimmer, have submitted supplemental documentation to the Planning Department and Commissioner Kasama, including video evidence and signed objection letters. These materials further substantiate the Association's concerns and reinforce the community's unified opposition to this variance request.

For these reasons, the Planning Commission should reject this variance request to uphold zoning consistency, regulatory compliance, and community integrity.

Sincerely,

*/s/ David M. Bray*

David M. Bray, Esq.

Corporate Counsel for Harbor Cove Homeowners Association



03-26-2025

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**EXHIBIT 1**

**EXHIBIT 1**

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**From:** Psampson952 <[REDACTED]>  
**Sent:** Monday, May 20, 2024 5:45 AM  
**To:** Paul Harvey <[REDACTED]>

**Subject:** 2980 Harbor Cove Dr

Dear Paul:

Thank you for sharing your plans for 2980 Harbor Cove Dr this past Saturday. Initially, I expressed my acceptance of that which you described, however, after further thought and review I must ask for additional information from you for me to support your proposed changes.

Can you provide a Survey and a copy of the Deed confirming that the strip of land that you intend to occupy is actually yours? I would doubt that the original walls were misplaced within the property plan and that they might have reflected mandatory setbacks from the roadway/sidewalk. As a part of the new wall do you intend to incorporate any additional means of egress to the property (gates, driveways etc)?

You have described the expansion or new construction of a storage facility. What is the size of the structure? What is the nature of the items to be stored (chemical, mechanical, flammable)? Are these items compatible with the existing Homeowner restrictions on combustibles? Is your intent to consolidate other storage facilities to this storage space?

Are you conducting a business from your residence? HOA rules specifically preclude the operation of businesses or commercial ventures from our homes. Noise abatement, commercial trucking and deliveries are also considerations.

At the Board Meeting on April 23 I was surprised that it was decided to no longer consult with neighbors when applying for ARC Approvals. In my opinion, this requirement simply reflects mutual respect for one's neighbors. The significance of your stated plan impacts critically important existing Homeowner regulations and restrictions and your request requires a more substantial review.

At the present time, I am unable to extend my support to your proposal without additional clarifications.

Sincerely,

Patrick Sampson

**EXHIBIT 2**

**EXHIBIT 2**

From: **Shanice White** <Shanice.White@fsresidential.com>  
To: **David Giudici** [REDACTED]; **Psampson952** [REDACTED]; **Jennifer Ballew** <Jennifer.Ballew@fsresidential.com>  
CC: **Paul Harvey** [REDACTED]; **Ellen Schunk** [REDACTED]; **Neighbor - HC**  
**Karen Andrews HOA - Board Member** [REDACTED]; **Patrick Sampson** [REDACTED]  
Subject: RE: Call for Emergency Meeting with Harbor Cove Association Attorney David Bray  
Date: 03.02.2025 21:13:17 (+01:00)

After discussions with both Kellie and Tina, it appears that the approval of this ARC was premature, as only one individual provided their approval, and a majority vote is required for the decision to be finalized. The ARC request was submitted through the SmartWebs platform rather than via email. It was brought to my attention that it was a recent request for ARCs to be submitted through email.

Thank you,



**SHANICE WHITE**  
Community Manager  
Direct 702.737.6580

**EXHIBIT 3**

**EXHIBIT 3**

From: **Christian** <crc@mydesertshores.com>  
To: **Shanice White** <Shanice.White@fsresidential.com>; **Bruce Cedar** <gm@mydesertshores.com>  
Subject: RE: 2980 Harbor Cove Dr - ARC Approval  
Date: 04.03.2025 19:15:35 (+01:00)

Good morning

Thanks for emailing in today. In regard to 2980 Harbor cove dr we do not have a architectural application proposal in our system.



*Christian Rivera*  
Community Relations  
Phone 702-254-0628  
Email [crc@mydesertshores.com](mailto:crc@mydesertshores.com)  
Desert Shores Community Association  
2500 Regatta Drive, Las Vegas, NV 89128  
Fax 702-254-1345 Web [www.mydesertshores.com](http://www.mydesertshores.com)

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From: Shanice White <Shanice.White@fsresidential.com>  
Sent: Tuesday, March 04, 2025 11:05 AM  
To: Bruce Cedar <gm@mydesertshores.com>; Christian <crc@mydesertshores.com>  
Subject: 2980 Harbor Cove Dr - ARC Approval

Good Morning,

We are seeking clarification regarding the approval status from the Master Association for the property mentioned in the subject line above, specifically in relation to the extension of the walls. Can you confirm when the approval was provided?

Thank you,



**SHANICE WHITE**  
Community Manager  
2590 Nature Park Drive #100 | North Las Vegas, NV 89084  
Direct 702.315.1319  
Email [Shanice.White@fsresidential.com](mailto:Shanice.White@fsresidential.com)

24/7 Customer Care Center: 702.737.8580  
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)



**EXHIBIT 4**

**EXHIBIT 4**

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918 P.2d 305

112 Nev. 649

**ENTERPRISE CITIZENS ACTION COMMITTEE, Appellant, v. CLARK COUNTY BOARD OF COMMISSIONERS, a Political Subdivision of the State of Nevada; Union Pacific Railroad Company, a Nevada Corporation; and Inland Properties, Inc., a Nevada Corporation, Respondents.**

No. 25357.

Supreme Court of Nevada.

May 30, 1996.

Rehearing Denied Sept. 5, 1996.

[\*306] Hayes & Gourley, Las Vegas, for Appellant.

Stewart L. Bell, District Attorney, Johnnie B. Rawlinson, Chief Deputy District Attorney, Clark County; Dominic P. Gentile, Ltd. and James N. Mancuso, Las Vegas, for Respondents. [\*\*651]

## OPINION

ROSE, Justice:

For many years, Union Pacific Railroad Company has owned a 180 acre tract of real property adjacent to its railroad track and easement in Clark County Nevada. The property is zoned for Residential Estates and Union Pacific has twice tried to change this zoning, first in 1989 to Industrial Without Dwellings, and then to Light or Designed Manufacturing in 1991. Both applications were denied.

By 1993, Inland Properties, Inc. had agreed to operate a sand and gravel pit on the real property at issue, and respondents Union Pacific Railroad Company and Inland Properties, Inc. (respondents) filed for a zone change, conditional use permit, and zone variance, all of which were granted by the Clark County Board of Commissioners (Board). Appellant Enterprise Citizens Action Committee (appellant), a committee comprised of people who own property surrounding respondents' property at issue, filed a petition for a writ of mandamus in district court seeking to overturn the Board's decision. The district court denied the petition for a writ of mandamus. We conclude that the [\*307] district court's denial of the writ petition was improper.

## FACTS

Respondents filed applications for a zone change, a conditional use permit, and a zone variance with the Clark County Department of Comprehensive Planning on June 15, 1993. At issue was an approximately 180 acre parcel of land owned by the respondents and located near Jones Boulevard south of the Blue Diamond Highway in Las Vegas. 1

[\*\*652] Respondents first requested that the property be "down-zoned" from R-E (Rural Estates) to R-U (Rural Open Land). In conjunction with this "down-zoning," respondents filed a second application for a conditional use permit to operate a sand and gravel pit on the property. Finally, respondents requested a zone variance in order to operate a concrete and asphalt batch plant in conjunction with the sand and gravel pit. 2 The only application at issue is the one requesting the variance because appellant admitted that the "down-zoning" from R-E to R-U was in conformity with the master plan 3 and the grant of the conditional use permit for the sand and gravel pit was in conformity with the Clark County Code.

The Board held a hearing regarding the three applications. Appellant opposed the variance because it permitted an industrial use of the property. It cited concerns regarding noise, dust particle control, traffic, and the safety of the children in the neighborhood. Respondents presented environmental studies indicating that potential problems cited by the appellant would be mitigated and that the project would have a favorable impact on the economic growth of the city. The Board voted 4-2 in favor of permitting the "down-zoning," granting the conditional use permit, and granting the variance.

Appellant filed a petition for a writ of mandamus in district court requesting that the Board's decision be overturned. It argued that a variance permitting the construction and operation of a concrete/asphalt batch plant would result in a high-intensity manufacturing use of the property in contravention of the master plan which had zoned the property for residential use. It also [\*\*653] argued that respondents had not demonstrated that they suffered any hardship or difficulty which warranted the Board's granting of a variance. The district judge, however, stated that respondents provided the Board with sufficient evidence of a hardship which warranted the variance. Additionally, the district judge felt that while it may have been sleight of hand for respondents to request [\*308] the "down-zoning," use permit, and variance rather than requesting a zoning change, he concluded that it was clever lawyering, it was successful, and it was not illegal.

Appellant then filed a timely appeal requesting this court to reverse the district court's order denying its petition for a writ of mandamus.

## DISCUSSION

Respondents presented no substantial evidence of hardship or difficulty to the Board which warranted the granting of a variance.

The grant or denial of a variance, like a grant or denial of a request for a special use permit, is a discretionary act. See *City of Las Vegas v. Laughlin*, 111 Nev. 557, 558, 893 P.2d 383, 384 (1995). "If this discretionary act is supported by substantial evidence, there is no abuse of discretion." *Id.* Substantial evidence is evidence which "a reasonable mind might accept as adequate to support a conclusion." *State, Emp. Security v. Hilton Hotels*, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986).

The function of the district court is to ascertain as a matter of law whether there was substantial evidence before the Board which would sustain the Board's actions, and the function of this court at this time is the same as that of the district court. *McKenzie v. Shelly*, 77 Nev. 237, 242, 362 P.2d 268, 270 (1961). Like the district court, this court is limited to the record made before the Board in reviewing the Board's decision. *Laughlin*, 111 Nev. at 558, 893 P.2d at 384. Finally, "no presumption of validity attaches to the decision of a district court that does not hear additional evidence in reviewing a zoning decision made by a municipality." *City of Reno v. Harris*, 111 Nev. 672, 677, 895 P.2d 663, 666 (1995). Because the district court heard arguments regarding whether there was substantial evidence to sustain the Board's actions but heard no additional evidence, the district court's decision will receive no presumption of validity.

We note, preliminarily, that the district court properly subjected the Board's actions to a substantial evidence standard of **[\*\*654]** review. However, after reviewing the record made before the Board, we conclude that respondents presented no substantial evidence to the Board which would sustain the Board's action granting the variance, and therefore we conclude that the Board abused its discretion in granting the variance and that the district court erred in denying appellant's petition for a writ of mandamus.

*Clark County Code Section 29.66.030 grants the planning commission the power*

where by reason of exceptional narrowness, shallowness or shape of a specific property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of such regulation enacted upon this title would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property, to authorize upon an application relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and under such conditions as such board may deem necessary to assure that the general purpose and intent of this title will be observed, public safety and welfare secured and substantial justice done.

Therefore, respondents had the burden to prove that because of the narrowness, shallowness, topographic conditions or other exceptional conditions of the property, the strict application of the zoning regulations would result in "exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property." 4 See *Constantino v. Zoning Hearing Bd.*, 152 Pa.Cmwlth. **[\*309]** 258, 618 A.2d 1193, 1196 (1992) (concluding that the applicant has the burden to prove the hardship); *Wells & Highway 21 Corp. v. Yates*, 897 S.W.2d 56, 62 (Mo.Ct.App.1995) (concluding that the applicant has the burden of proving the hardship). Only after respondents met this burden could the Board properly grant the variance.

This court has not previously provided a definition of hardship, **[\*\*655]** but many other courts and authorities have done so. See 101A C.J.S. *Zoning & Land Planning* § 242 (1979) (hardship exists where the application of the regulation to property greatly decreases or practically destroys its value for any permitted use, so as to deprive the owner of the land of all beneficial use of the land); *Wells & Highway 21 Corp.*, 897 S.W.2d at 62 (hardship requires showing that land cannot yield reasonable return if used only for the purpose allowed in that zone); *Concerned Residents v. Zoning Bd. of App.*, 634 N.Y.S.2d 825, 826 (App.Div.1995) (hardship requires "dollars and cents" proof that property cannot yield reasonable return as currently zoned); *Miller v. Zoning Hearing Bd. of Ross Tp.*, 167 Pa.Cmwlth. 194, 647 A.2d 966, 969 (1994) (hardship requires showing that land is virtually useless as it is presently zoned); *State v. Winnebago County*, 540 N.W.2d 6, 9 (Wis.Ct.App.1995) (hardship is a situation where, in the absence of a variance, no feasible use could be made of the land). While we are not compelled to employ any of these definitions, we conclude that respondents have failed to prove, pursuant to any of these definitions, that the strict application of the zoning regulations would result in a hardship or difficulty which merited the granting of the variance.

On June 15, 1993, respondents submitted their zone change application, conditional use permit application, and variance application. The variance application requires the applicant to answer five questions regarding the variance. The questions, and respondents' answers (in italics), were as follows:

1. What special circumstances or conditions exist, applicable to the property or building referred to in the application, which you believe justify a change of restrictions (exceptional narrowness, shallowness, shape or topography?)

a. Unusual lot shape resulting from railroad and street alignments.

b. Excess dedication required for arterial road (Jones Blvd.).

2. Explain any other special circumstances or hardships (not pertaining to the lot) which you believe justify a change in restrictions.

Site is near existing industrial uses and abuts railroad and M-1 zoning, making it unsuitable for residential use.

3. Explain why the granting of this application is necessary for the preservation and enjoyment of substantial property rights.

Facility will meet all applicable health and safety standards. Traffic impacts will be mitigated in accordance with traffic study. **[\*\*656]**

4. Explain how the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

This area is master planned for R-U land uses by the recently-adopted Clark County land use guide for Enterprise.

5. Explain how the granting of this application will not adversely affect the Clark County Comprehensive Plan.

[No answer given]

Respondents argued to the district court and to this court that their answers on the variance application provided substantial evidence to prove that a hardship existed to justify the granting of the variance. However, we conclude that these answers were at most merely conclusory statements that a hardship or difficulty existed and that respondents presented no evidence that they were subjected to exceptional practical difficulties or exceptional and undue hardships which warranted the variance.

Respondents stated that the unusual shape of their property, the excess dedication [\*310] required for Jones Boulevard, 5 the abutting railroad tracks on the western boundary, and the industrial zoning west of the railroad tracks were all special circumstances which they believed made the property unsuitable for residential use and justified a variance. According to Clark County Code Section 29.66.030, these reasons qualify as circumstances which may create exceptional difficulties to or undue hardships upon the property owner. However, these circumstances do not ipso facto create a difficulty or hardship which warrants a variance, and it is incumbent upon the property owner to prove what the hardship or difficulty is, i.e., the owner of the property would be deprived of all beneficial uses of the land if the land was used solely for the purpose allowed in that zone, the value of the property would decrease significantly if the property was used solely for the purpose allowed in that zone, a reasonable return on the property would not be realized unless the variance was granted, the land is virtually useless as zoned, or no feasible use could be made of the land as zoned.

Respondents had an opportunity to provide proof of a hardship or difficulty in their answer to question number three on the zoning variance application. The question asked respondents to explain why the variance was required to preserve the enjoyment [\*\*657] of the property rights, in essence asking why the circumstances provided in the answers to questions one and two created a hardship or difficulty which required the granting of the variance. Respondents' answer stated only that the facility would meet health and safety standards and that traffic impacts would be mitigated. This answer was non-responsive and failed to provide any evidence that a hardship or difficulty existed which warranted the granting of the variance which would allow manufacturing in a residential district.

Respondents never explained why the circumstances listed in the answers to questions one and two made the property unsuitable for its zoned residential use and therefore valueless without a variance, especially in light of the fact that people owned residences in the immediate surrounding area. Moreover, respondents had already requested a conditional use permit to maintain a sand and gravel pit on the property which would have provided respondents with a conditionally permitted, non-residential use of the property. Respondents never alleged or argued that they could not receive a reasonable return from the operation of the sand and gravel pit absent the variance permitting the batch plant.

Additionally, respondents failed to present any evidence at the Board hearing to establish that the circumstances claimed by them created a hardship or difficulty which warranted the granting of the variance. Respondents presented the Board with five different reports addressing environmental, geological, economic, noise, and traffic impacts of the project. Respondents stressed to the Board that the project would have minimal noise impact, that traffic and safety concerns would be mitigated, and that the project would be a boon to the economy, creating both jobs and significant tax revenues. However, at no time did the Board inquire about or did respondents address the issue of why the lot shape, abutting railroad tracks, nearby industrial zoning, or dedications required on Jones Boulevard created a hardship or difficulty which warranted the variance in conjunction with the conditional use permit. In fact, the only two times that hardship or difficulty was even mentioned, the conclusion was that none existed: the opinion of the Board's staff was that no legal hardship existed (although the staff proclaimed that they were not concerned about that fact and recommended granting the variance), and one county commissioner stated that he believed no hardship existed.

Based on the variance application and respondents' testimony to the Board, it is clear that respondents provided no evidence to prove that the unusual lot shape, abutting railroad tracks, nearby manufacturing zoning, and dedications on Jones Boulevard created a hardship or difficulty which warranted the Board to grant a [\*\*658] variance allowing respondents to construct and operate a concrete/asphalt batch plant on property zoned R-U. Therefore, the district court erred in [\*311] concluding that respondents had provided the Board with substantial evidence that a hardship existed and in subsequently denying appellant's petition for a writ of mandamus.

The concrete/asphalt batch plant was not incidental to the sand and gravel pit, and additionally the sand and gravel pit was a conditional use not subject to the provisions allowing accessory uses, buildings and structures.

Respondents also argued that the concrete/asphalt batch plant was incidental to the sand and gravel business and should therefore be permitted. Respondents' argument fails for two reasons. First, the batch plant was not incidental to the sand and gravel pit. "Incidental" is defined as "something dependent upon, appertaining or subordinate to, or accompanying something else of greater or principal importance, something arising or resulting from something else of greater or principal importance." Black's Law Dictionary 762 (6th ed. 1990).

Other courts have determined that a concrete/asphalt batch plant is not incidental to a sand and gravel pit for several reasons. First, the concrete/asphalt plant can operate in any location and need not be adjacent to the sand and gravel pit. *NBZ Enterprises v. City of Shakopee*, 489 N.W.2d 531, 536 (Minn.Ct.App.1992). Additionally, the concrete/asphalt batch plant does not serve the gravel pit by assisting or aiding in the excavation of the gravel, and is required only to mix necessary components to create a new product, either concrete or asphalt. *Id.* Finally, the addition of the concrete/asphalt batch plant might expand respondents' business so extensively that respondents would be operating a new business. *Medusa Aggregates Co. v. City of Columbia*, 882 S.W.2d 223, 225 (Mo.Ct.App.1994). Therefore, a situation could arise whereby the concrete/asphalt batch plant would not be subordinate to the sand and gravel pit, but just the opposite would occur; the sand and gravel pit would

be subordinate to the concrete/asphalt batch plant and would operate to the concrete/asphalt batch plant's benefit, not vice versa. *Id.* Such a situation would make a mockery of the master plan and therefore will not be permitted.

Second, the zoning regulations governing permitted uses of land in an R-U (Rural Open) district states that accessory uses, [\*\*659] buildings and structures, if clearly incidental to the permitted use and placed upon the same lot with a permitted use, will also be permitted. Clark County Code § 29.06.020(B). However, sand and gravel pits are conditional uses requiring a permit and are not permitted uses. Clark County Code § 29.06.030(C). The plain and ordinary meaning of Clark County Code Section 29.06.020(B) is that it applies only to accessory uses, building and structures incidental to a permitted use and does not apply to accessory uses, buildings or structures incidental to a conditional use requiring a permit. See *NBZ Enterprises v. City of Shakopee*, 489 N.W.2d 531, 536 (Minn.Ct.App.1992); *Prior Lake Aggregates, Inc. v. City of Savage*, 349 N.W.2d 575, 578-79 (Minn.Ct.App.1984). Therefore, even if the batch plant was clearly incidental to the sand and gravel pit, the concrete/asphalt batch plant would still be disallowed because the sand and gravel pit is not a permitted use in an area zoned R-U.

Respondents' strategy was an improper attempt to circumvent the master plan, and the Board's decision to grant the variance did not accord substantial deference to the master plan.

NRS 278.250 governs many aspects of planning and zoning and provides not only for the adoption of master plans, but also for zoning in accordance with an adopted master plan. The master plan of a community is a "standard that commands deference and a presumption of applicability," but should not be viewed as a "legislative straightjacket from which no leave can be taken." *Nova Horizon v. City Council, Reno*, 105 Nev. 92, 96, 769 P.2d 721, 723 (1989).

The master plan provided that the subject property was originally zoned R-E (Rural Estates), which permitted low density residential use and the raising of crops and of a limited number of animals for noncommercial purposes. Clark County Code § 29.10.010. Manufacturing is not permitted [\*\*312] either expressly or by virtue of a conditional use permit in a district zoned R-E or R-U, and in order to conduct manufacturing (and more specifically operate a concrete/asphalt batch plant) on respondents' property, the property would have to be rezoned as M-2 (Industrial Without Dwellings), which expressly permits mixing plants for concrete and asphalt. Clark County Code § 29.42.010(50). Union Pacific had twice previously tried to get the subject property rezoned for manufacturing and had twice failed. In 1989, Union Pacific requested that the property be rezoned as M-2, and the request was denied. In 1991, Union Pacific requested that the property be [\*\*660] rezoned as M-1 (Light Manufacturing) and M-D (Designed Manufacturing), and that request was also denied. 6

Apparently, due to their failures to have the property rezoned for manufacturing uses, respondents chose the present course of applying for a "down-zone," requesting a conditional use permit for a sand and gravel pit, and also requesting a variance for the batch plants. The district judge sanctioned this conduct, stating that

It may have been sleight of hand, but it's not unlawful. You could argue that it's good lawyering and I think we can ascribe to that, but it was done in a clever manner. It was successful and, as far as I can determine, is not illegal.

However, we conclude that the course chosen by respondents was an improper attempt to circumvent the master plan and that the Board's decision to grant the variance completely ignored the master plan, which expressly prohibited manufacturing on respondents' land.

Taken individually, the three requests made by the respondents were all minor changes which likely did not amount to a non-conforming use of the property. However, taken as a whole, the three requests amounted to a non-conforming use of the property because their effect would have been to allow manufacturing in a district which expressly forbids manufacturing. Because respondents' goal was to manufacture concrete and/or asphalt on the property, they should have requested that the property be rezoned to allow that type of manufacturing. 7

Additionally, by evaluating respondents' three requests separately and by permitting the manufacturing use, the Board completely ignored the master plan. The Board permitted respondents [\*\*661] to do indirectly what they could not accomplish directly, i.e., manufacture concrete and asphalt in a zoning district which expressly forbids manufacturing. Such a decision amounts to spot zoning and provides no deference to the master plan in violation of this court's ruling in *Nova Horizon v. City Council, Reno*, 105 Nev. 92, 96, 769 P.2d 721, 723 (1989). Therefore, we conclude that the Board erred in granting the variance and that the Board's decision must be overturned.

Award of Attorney's Fees.

Appellant argues that it is entitled to attorney's fees pursuant to NRS 278.0233 8 [\*\*313] because it had an interest in real property which might be damaged by the Board's actions. However, the statute indicates that relief in the form of actual damages is available only to the party which submitted the application requesting an improvement or change of use on its property and only after the responsible agency acts arbitrarily in imposing some type of restriction on the use of the property in excess of the agency's statutorily derived powers. The statute does not provide for relief in the form of actual damages for a party challenging the application, if indeed the agency acted arbitrarily in granting the application. Therefore, appellant is not entitled to attorney's fees pursuant to NRS 278.0233.

#### CONCLUSION

We conclude that the district court erred in denying appellant's petition for a writ of mandamus for three reasons. First, respondents did not provide substantial evidence to the Board that a hardship or difficulty existed which justified the granting of a variance to allow the concrete/asphalt batch plant. Second, the Clark County Code does not permit accessory uses, buildings, and structures incidental to a conditional use in areas zoned R-U. [\*\*662] Third, the Board of County Commissioners erred by not providing deference to the master plan. Therefore, the order of the district court denying appellant's petition for a writ of mandamus is reversed, and this matter is remanded to the district court with instructions to reverse the Board's decision to grant the variance. We also conclude that appellant is not entitled to attorney's fees.

STEFFEN, C.J., and YOUNG, J., concur.

SHEARING and SPRINGER, JJ., dissent.

SHEARING, Justice, with whom SPRINGER, J., joins, dissenting:

I would affirm the judgment of the district court denying the petition for writ of mandamus and upholding the decision of the Clark County Board of Commissioners.

In 1968, this court stated:

The days are fast disappearing when the judiciary can look at a zoning ordinance and, with nearly as much confidence as a professional zoning expert, decide upon the merits of a zoning plan and its contribution to the health, safety, morals or general welfare of the community. Courts are becoming increasingly aware that they are neither super boards of adjustment nor planning commissions of last resort.

Coronet Homes, Inc. v. McKenzie, 84 Nev. 250, 255-56, 439 P.2d 219, 223 (1968). In 1996, decisions regarding land use are much more complicated in the increasingly urban environment of Clark County. This court must be very circumspect about interfering with the decisions made by those who are selected by the people of Clark County to make those decisions.

I agree with the majority that a grant or denial of a variance is a discretionary act which this court must uphold if the discretion is not abused. Nevada Contractors v. Washoe County, 106 Nev. 310, 314, 792 P.2d 31, 33 (1990). I believe that there was substantial evidence presented to support the grant of the variance under Clark County Code Section 29.66.030 and that the Clark County Board of Commissioners did not abuse its discretion.

Section 29.66.030 authorizes the Commission to grant a variance to relieve a property owner from the zoning regulation when "such regulation ... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property." The plot plans showing the long, narrow shape of the property abutting [\*314] the railroad tracks and the photographs showing the railroad tracks, the tower, the gravel pit and the existing structures on the other side of the railroad tracks, together, make it clear that the property is not suitable for residential zoning. The photographs alone testify to the "exceptional practical difficulties," and the "exceptional and [\*\*663] undue hardships," in requiring the owner to keep the land for residential use.

The complainants did not even raise the issue of lack of difficulty or hardship. They raised numerous other objections which the majority of the Commissioners obviously thought had been adequately addressed by the property owner and by the conditions to the variance imposed by the Commission. I do not believe that this court can conclude as a matter of law that the Clark County Board of Commissioners abused its discretion.

I disagree most emphatically that any adverse inferences should be drawn from the fact that M-2 zoning for the property had previously been turned down or that three separate requests led to the grant of the variance. Changing an R-1 zoning to a zoning permitting manufacturing is quite different from granting a variance on a particular parcel that has unique problems. Granting an M-2 zoning could lead to a change in the entire character of the area, while a variance on a parcel is unlikely to do so.

1 Because the shape of the property at issue and the type of zoning surrounding the property are important to this opinion, both must be explained. The property is almost triangular in shape, but is better defined as a trapezoid, with the northern and southern boundaries running parallel to each other, the eastern boundary running perpendicular to the northern and southern boundary, and the western boundary running southwest to northeast, resulting in a northern boundary only about one third the length of the southern boundary. The dimensions of each boundary were not provided to this court, but in general terms if the northern boundary is one unit long, then the western boundary is four and one-half units long, the southern boundary is three units long, and the eastern boundary is four units long. The property has railroad tracks abutting the entire western boundary of the property. M-1 (Light Manufacturing) zoning extends directly west of the railroad tracks for 1,000 feet. All of the property located west of the M-1 zoning is zoned R-E (Residential Estates). The southern boundary is abutted by a road, and all of the property located south of that road is zoned R-E. The eastern boundary of the property is abutted by Jones Boulevard, and it appears that the property located east of Jones Boulevard is zoned for residential use. Finally, the northern boundary of the property is abutted by Serene Avenue, and it appears that the property located north of Serene Avenue is zoned for residential use. (This court was not provided with a map detailing what type of residential zoning existed on the property located directly east and north of the property at issue. However, residents from those areas testified in front of the Board of County Commissioners that they owned homes in those areas.)

2 All three applications were filed at the same time.

3 The property at issue was designated by the master plan as a Community 3 District. Appropriate land uses described for a Community 3 District are residential developments with densities equal to or lesser than two dwellings per acre, agricultural, recreational, open space and resource production land use. Property zoned both R-E and R-U satisfy these requirements.

4 Respondents argue that at the hearing in front of the Board, appellant did not challenge the variance on the grounds that no legal hardship or difficulty existed, and instead only complained about the noise, traffic, dust, and safety impacts of the project. However, respondents had the burden to prove that a hardship or difficulty existed, and therefore it was not incumbent upon appellant to raise the issue at the hearing.

5 Respondents never stated what "excess dedication" means.

6 Both times manufacturing zoning was requested, Union Pacific proceeded on its own because at those times Inland Properties, Inc. held no ownership interest in the property.

<sup>7</sup> An application for rezoning requires the submission of nine separate reports addressing the impact of the rezoning on the surrounding area. Clark County Code § 29.68.025(E). Additionally, non-conforming use requests, i.e., zone changes, are required to have at least one public hearing before the Planning Commission and at least one public hearing before the Board of County Commissioners. Clark County Code § 29.68.030. By cloaking their request for a zone change as one for a variance in conjunction with a conditional use, respondents received three major benefits. First, they were not required to submit the nine impact reports to the Planning Commission and the Board of County Commissioners, thereby lessening their burden of production. Second, they avoided having to request manufacturing zoning from the Planning Commission, which had twice before denied respondents' same request. Third, they avoided the public hearing in front of the Planning Commission which would have exposed their plan to greater scrutiny both by the Planning Commission and by citizens.

<sup>8</sup> NRS 278.0233 states:

Any person who has a right, title, or interest in real property, and who has filed with the appropriate state or local agency an application for a permit which is required by statute or an ordinance, resolution or regulation adopted pursuant to NRS 278.010 to 278.630, inclusive, before that person may improve, convey or otherwise put the property to use, may bring an action against the agency to recover actual damages caused by:

(a) Any final action, decision or order of the agency which imposes requirements, limitations, or conditions upon the use of the property in excess of those authorized by ordinances, resolutions, or regulations adopted pursuant to NRS 278.010 to 278.630, inclusive, in effect on the date the application was filed and which:

- (1) Is arbitrary or capricious; or
- (2) Is unlawful or exceeds lawful authority.

**Planning Comments**

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**From:** David Bray <david@braylawgroup.com>  
**Sent:** Wednesday, March 26, 2025 5:07 PM  
**To:** Planning Comments  
**Subject:** Variance Request 24-0640-VAR1 (8113 Sunset Cove Dr.) / Harbor Cove Homeowners Association's Opposition

**Importance:** High

RECEIVED  
APR 03 2025  
Dept of Planning  
City of Las Vegas

CAUTION: This email originated from an External Source. Please use caution before opening attachments, clicking links, or responding to this email. Do not sign-in with your City of Las Vegas account credentials.

City of Las Vegas Planning Commission,

On behalf of the Harbor Cove Homeowners Association, please find attached the Association's formal Opposition to the pending variance request for 8113 Sunset Cove Drive, Las Vegas, NV 89128 (Planning Application No. 24-0640-VAR1). As an initial matter, the Association respectfully requests that this variance request be removed from the "One Motion – One Vote" portion of the City of Las Vegas Planning Commission April 8, 2025 Agenda. Given the significant procedural deficiencies, lack of compliance with zoning regulations, and substantial community opposition, this matter warrants full consideration and independent discussion before the Commission.

This Opposition outlines the Association's position that the variance request fails to satisfy the criteria set forth under LVMC 19.16.140 and is unsupported by substantial evidence, as required by Nevada law. Specifically, the Applicant's claimed hardship is self-imposed, legally insufficient, and not supported by either the Harbor Cove Homeowners Association or the Desert Shores Master Association.

The attached submission includes the full Opposition letter along with supporting exhibits and is intended to complement the materials already submitted, including homeowner objection letters and documentation regarding notice-related concerns.

We respectfully request that this submission be included in the Planning Department's formal record for this application. Please feel free to contact me if any additional information or documentation is required. A hard copy will follow via US Certified Mail.

Thank you for your time and consideration of the Association's position.

David Bray | Attorney

Bray Law Group LLC

<<https://url.us.m.mimecastprotect.com/s/Ta9ACOYRRmIE8ZyVsEfgUG6c08?domain=braylawgroup.com/>>

1180 N. Town Center Dr. Ste. 100 | Las Vegas, NV 89144

Phone: 702-623-0046 | Fax: 725-210-5800

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Item 13  
P

# FAX COVER SHEET

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To: City of Las Vegas

Company: City of Las Vegas

Attention: Planning Commission; Department of Community Affairs

Fax Number: +1 702-464-7499

From: Seth Davis

Date: 3/25/2025 11:39 AM

Re: 24-0640-VAR|; Supplemental filing

RECEIVED

APR 03 2025

Dept of Planning  
City of Las Vegas

## Cover Message:

I am faxing on behalf of Robert Krimmer a supplement to his previously submitted letter objecting to applicant's request for a variance in the above-referenced matter. I am also faxing a packet containing 75 signed objection letters from full-time resident owners in the impacted Harbor Cove HOA community.

Please add these documents to the public comment file for the April 8th, 2025 Planning Commission meeting.

ITEM 13  
P

**EXECUTIVE SUMMARY OF OBJECTIONS TO 24-0640-VARI****Submitted By: Robert Krimmer, 8109 Sunset Cove Drive, Las Vegas, NV. 89128**

**Applicant seeks a variance allowing relocation of his 85-foot frontage wall to within inches of the common area sidewalk thereby eliminating the current setback. It is respectfully requested that the Planning Commission deny applicant's variance request because his purported hardships are preferential in nature, and outside the scope and affect applicable law.**

**Objections:**

1. The privacy, loitering, littering and pet waste issues cited by applicant are not supported by substantial evidence and do not constitute hardships within the scope and purview of regulatory and case law.
2. Applicant creates a self-imposed hardship by proposing to construct a frontage wall that does not comply with zoning regulations. He does so for preferential reasons. In the absence of actual hardship, it may be reasonably concluded that applicant's sole purpose in seeking the variance is to relieve a self-imposed hardship. This is not a permissible basis for granting a variance under applicable regulatory and case law.
3. Relocating the frontage wall as proposed would have a negative impact on the appearance and design of the Harbor Cove community. It would also negatively impact the vested economic interests of its residents.
4. The proposed relocation of the frontage wall violates applicable development standards for both the Desert Shores Master Community and the Harbor Cove HOA.
5. Applicant erroneously asserts in his variance application that the proposed relocation of the frontage wall was duly approved by the Harbor Cove Board of Directors.
6. Applicant misleadingly states that there are precedents for the proposed relocation of the frontage wall within the Harbor Cove community. There are no frontage walls in the Harbor Cove HOA that are directly adjacent to common area sidewalks.

**Conclusion:**

Applicant has not submitted substantial evidence that unique or extraordinary circumstance exists to justify his variance application. His purported hardships are preferential in nature, and outside the scope and effect of applicable law.

**Alternative Solution:**

Landscaping is a far more effective way for applicant to address his stated concerns. A privacy hedge along the frontage wall and strategic plantings in the existing setback area would adequately address applicant's privacy, loitering, littering and pet waste concerns. This approach would not require a variance and would benefit both applicant and Harbor Cove residents.

**SUPPLEMENTAL OBJECTION LETTER****Reference: 24-0640-VARI****Planning Commission Meeting Date: April 8, 2025****Submitted By: Robert Krimmer, 8109 Sunset Cove Drive, LV, NV 89128****Submitted To: Ward 4 Planning Commissioner Serena Kasama & City of Las Vegas Planning Commission****Subject: Objection Letter**

Dear Commissioner Kasama:

Harbor Cove is a gated community located within the Desert Shores Master Community. There are 121 homes in Harbor Cove. There are two private roads providing ingress and egress to the Harbor Cove community. Applicant's home is located on one of those roads. Therefore, every resident of Harbor Cove drives or walks past applicant's parcel at one time or another

This letter is a supplement to my previously submitted letter objecting to applicant's request for a variance in the above-referenced matter. Applicant seeks a variance that would allow him to relocate his 85-foot frontage wall within inches of the common area sidewalk thereby eliminating the current setback. In seeking the variance, applicant claims hardships which are unsubstantiated and beyond the scope and effect of Title 19.16.140, NRS 273 and applicable case law.

Please consider the following points and authorities in your determinations:

- 1. The variance should be denied because the existing parcel configuration and wall location does not present "... peculiar and exceptional difficulties ..., or exceptional and undue hardships ... to owner" as required for the granting of a variance under Title 19.16.140(L).**

The Staff Report recommending approval of the variance request cites Title 19.16.140(L) which 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 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."

Title 19.16.010(I) states that "(t)he applicant bears the burden of proof to establish that the approval of a Variance is warranted." In *Enterprise Citizens Action v. Clark Co. Comm'rs*, the Nevada Supreme Court determined that an applicant for a variance must present substantial evidence to sustain a determination by the decision-making authority that the variance should be granted. Substantial evidence was defined by the court as evidence that a reasonable mind might accept as adequate to support a conclusion.

The Supreme Court further concluded that an applicant's justification for the variance must be more than mere conclusory statements that hardship or difficulty exists. Applicant must provide sound evidence that they are subject to exceptional practical difficulties or exceptional and undue hardships which warranted the variance. In *Enterprise*, the Court also stated that the definition of "hardship" generally requires a showing that application of the existing zoning regulation to applicant's property greatly decreases or practically destroys its value for the permitted use. *Enterprise Citizens Action v. Clark Co. Comm'rs*, 112 Nev. 649, 918 P.2d 305 (Nev. 1996).

Applicant's justification letter states that "[t]he whole reason for the movement (of the frontage wall) is privacy." The justification letter also alludes to loitering, trash and pet waste issues as ancillary concerns.

- **Privacy:** Applicant's justification letter states that "individuals walk over the rocks to peer over my wall into my backyard and pool area, the height of the wall is 5'8" however they are able to do this due to the land having a 6-inch gradient from the sidewalk to my wall this results in the physical height being 5ft 2in high."

As required by both Desert Shores and Harbor Cove Architectural Guidelines (See Item 4), applicant's frontage wall is located ~16-feet from the common area sidewalk. Due to the 16-foot separation, the sight lines from the sidewalk into applicant's yard and pool area are completely blocked. Photographs provided by applicant illustrate this fact.

If applicant moves his wall as proposed, any person over 5' 8" in height would be capable of seeing over the wall into applicant's yard and pool without leaving the common area sidewalk. The proposed movement of the frontage wall does not solve applicant's purported privacy issue; it exacerbates it.

Applicant fails to provide substantial evidence that his privacy concern is caused by an extraordinary or peculiar topographic conditions or site configuration. What applicant does describe (without evidence) is an intermittent trespassing issue that is common among homeowners, and one which Title 19.16.140(L) was not intended to address or solve.

- **Loitering:** Loitering is not an issue in the community. Applicant provides no evidence of a loitering issue. Applicant's assertions regarding loitering are mere conclusory statements. Any loitering issue that arises can be addressed through the HOA, the HOA's hired security force or local authorities. Title 19.16.140(L) was not intended to address or solve loitering issues.
- **Trash:** Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Applicant provides no evidence of a trash issue. Applicant's assertions regarding trash are mere conclusory statements. Any littering issue that arises can be addressed through the HOA. Title 19.16.140(L) was not intended to address or solve littering issues.

- **Pet Waste:** Pet waste is not a problem in the community. Applicant provides no evidence of a pet waste issue. Applicant's assertions regarding pet waste are mere conclusory statements. The HOA has specific rules governing walking pets and the disposal of pet waste. Any pet waste concerns can be addressed through the HOA. The HOA has installed pet waste stations throughout the community. One of those receptacles is in the park next to applicant's property. Title 19.16.140(L) was not intended to address or solve pet waste issues.

The grant or denial of a variance by the Planning Commission is a discretionary act. If this discretionary act is supported by substantial evidence, there is no abuse of discretion. *Enterprise Citizens Action v. Clark Co. Comm'rs*, 112 Nev. 649, 918 P.2d 305 (Nev. 1996).

The purported privacy, loitering, littering and pet waste issues cited by applicant are not hardships caused by an extraordinary or peculiar topographic conditions or site configuration. The issues cited are common to all homeowners and do not constitute hardships within the scope and purview of Title 19.161.140(L), NRS Chapter 278 and applicable case law.

Landscaping is a far more effective way for applicant to address his stated concerns. By planting a hedge along the existing frontage wall, applicant can create a visual barrier that addresses his privacy concern. By planting strategically placed drought tolerant plants throughout the setback area, applicant can effectively deter trespassers, loitering and pet waste. A landscaping solution does not require a variance and would benefit applicant, the common interest of the HOA and the environment.

**2. The requested variance should be denied because applicant seeks to "...relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16.140(B).)**

- Applicant appears to operate a construction and contracting business out of his residence (See Attachment 7). Construction materials are stored in all three of applicant's garages. Applicant and laborers access construction materials from applicant's garages while working on construction projects within the Harbor Cove community. Operation of a commercial construction/contracting business from a residence violates Harbor Cove HOA's rules and regulations.

Applicant's commercial activity on the subject property is relevant to the Planning Commission's deliberation because it goes to the accuracy and veracity of applicant's stated purposes and intent for seeking the variance. There is reasonable concern that applicant seeks to expand the footprint of his enclosed yard for purposes of creating ~1400 square feet of addition storage space for commercial construction materials and equipment.

- The existing wall and parcel configuration do not in any way reduce, limit or negate applicant's full use and enjoyment of his parcel for residential use. Nor does the existing wall in any way reduce the economic value of applicant's parcel for residential use. From the standpoint of residential use, the current configuration of applicant's parcel confers significant economic benefits on applicant since the parcel footprint is ~14,000

square feet of usable space (over twice the square footage footprint of approximately 96% of Harbor Cove properties). (Source: Open Web – <https://maps.clarkcountynv.gov>).

Applicant creates a self-imposed hardship by proposing to construct a frontage wall that does not comply with zoning regulations. He does so for preferential reasons. In the absence of actual hardship, it may be reasonably concluded that applicant's sole purpose in seeking the variance is to relieve a self-imposed hardship. This is not a permissible basis for granting a variance under Title 19.161.140(B), NRS Chapter 278 and applicable case law.

**3. The proposed relocation of the frontage wall would have a substantial negative impact on the aesthetic appearance and architectural design of the Harbor Cove community. It would also negatively impact the vested economic interests of community residents.**

- Relocation of the frontage wall as proposed would negatively impact sight lines of nearby parcel owners and residents using the HOA's common areas sidewalk and roads. Currently, the frontage yard wall is setback ~16-feet from the common area. This provides an open and aesthetically pleasing neighborhood view. In addition, there are several mature and established trees growing in the setback area which would likely be destroyed during construction of the proposed wall.
- As a planned common interest development, all owners of parcels in Harbor Cove purchased their home based on the original design of the community and a belief that that the fundamental elements of that design will be preserved. To allow applicant to alter his frontage wall potentially jeopardizes the vested investment and aesthetic interests of residents who purchased properties in reliance on the reasonable belief that the original plat design would be preserved as a matter of common interest. It also opens the door to future proposed modifications of frontage walls by other owners. To address those proposed modifications could unnecessarily subject the Harbor Cove HOA to significant costs and effort.

**4. The proposed relocation of the frontage wall would violate the applicable development standards for both the Desert Shores Master Community and the Harbor Cove HOA.**

- The staff report does not accurately reflect applicable development standards for the Desert Shores Master Community or the Harbor Cove HOA. These standards prohibit frontage walls to be constructed directly adjacent to the common area sidewalks and require a 16-foot setback. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8, 2002, Section II, p.6; Desert Shores Community Association Architectural Guidelines, Article II, p.12)

**5. Applicant erroneously asserts that the proposed relocation of the frontage wall was approved by the Harbor Cove HOA Board of Directors.**

- The Planning Commission's Staff Report states that "[t]he applicant has provided a copy of an approval letter from the Homeowner's Association." That same letter is included in the packet of information supporting applicant's variance request. The Harbor Cove HOA did not properly review or approve applicant's proposed project. It should also be noted that applicant did not seek or obtain required project approval from the Desert

Shores Master Community. My understanding is that the HOA's attorney will be submitting detailed information and evidence on this subject.

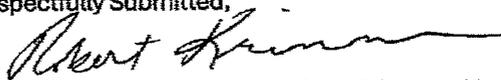
- Applicant attests that "the information submitted with this application is true and accurate to the best of [his] knowledge and belief." Applicant has lived in the Harbor Cove HOA for approximately 6 years and served on the HOA Board of Directors for the past 4 years (2 years as President). Applicant possesses detailed knowledge of the HOA's governing documents and procedures. Given his background and experience in construction and HOA procedures, applicant knew or should have known that the HOA approval letter he submitted was a misrepresentation of fact.
- 6. Applicant misleadingly states that there are precedents for the proposed relocation of the frontage wall within the Harbor Cove community.**
- Applicant's justification letter states that "[p]residents(sic) are already set within the community where walls are adjacent to the sidewalk." This is a misleading statement because there are no frontage walls in the Harbor Cove HOA that are directly adjacent to common area sidewalks. There are side yard walls positioned adjacent to the common area sidewalk, but These walls comply with applicable development standards and reflect topographic conditions.

**CONCLUSION:** Applicant has not submitted substantial evidence that unique or extraordinary circumstance exist to justify his variance application. Applicant creates a self-imposed hardship by proposing to construct a frontage wall that does not comply with applicable zoning regulations. He does so for preferential reasons.

Landscaping is a far more effective way for applicant to address his stated concerns. A privacy hedge along the frontage wall and strategic plantings in the existing setback area would adequately address applicant's privacy, loitering, littering and pet waste concerns. This approach would not require a variance and would benefit both applicant and Harbor Cove residents.

**In view of the absence of any hardships imposed by the site's physical characteristics, it is respectfully requested that the Planning Commission deny applicant's variance request because his purported hardships are preferential in nature, and outside the scope and effect of Title 19.16.140, NRS Chapter 278 and applicable case law governing the granting of variances by the Planning Commission.**

Respectfully Submitted,



Robert Krimmer, 8109 Sunset Cove Drive, Las Vegas, Nevada 89128

**Attachments:**

1. Title 19.16.140 Variance
2. *Enterprise Citizens Action v. Clark Co. Comm'rs*, 112 Nev. 649, 918 P.2d 305 (Nev. 1996).

3. City of Las Vegas Department of Planning "Variance Submittal Requirements", Revised 07/19/2016
4. Title 19.16.010 General Requirements
5. "Architectural Standards and Guidelines for Harbor Cove Homeowners Association"
6. "Desert Shores Community Association Architectural Policies and Guidelines"
7. Photos of Applicant Conducting Commercial Construction Activities from his Residence

Cc: Harbor Cove HOA Attorney David Bray; Harbor Cove Director Ellen Schunk

**Attachment 1:  
Title 19.16.140 Variance**

### 19.16.140 Variance

#### A. Purpose

The purpose this Section is to establish a procedure to allow for an adjustment of certain specific requirements of this Title, as permitted by State law.

### Variance 19.16.140 Typical Review Process

#### B. Scope and Limitations

Pursuant to NRS Chapter 278 and this Section, the Planning Commission and the City Council have the authority to act upon Variance applications as set forth in this Section and as they deem appropriate. Variance applications shall initially be heard by the Planning Commission. Where a Variance application is proposed in connection with another application to be heard by the Planning Commission, including an application for Special Use Permit, an application for Rezoning, or an application for Site Development Plan Review, the Variance application shall be considered by the Planning Commission, as a separate application, in conjunction with the associated application. A Variance:

1. Is not available to permit a use in a zoning district in which the use is not allowed, or to vary any minimum spacing requirement between uses; and
2. Shall not be granted in order to relieve a hardship which is solely personal, self-created or financial in nature.

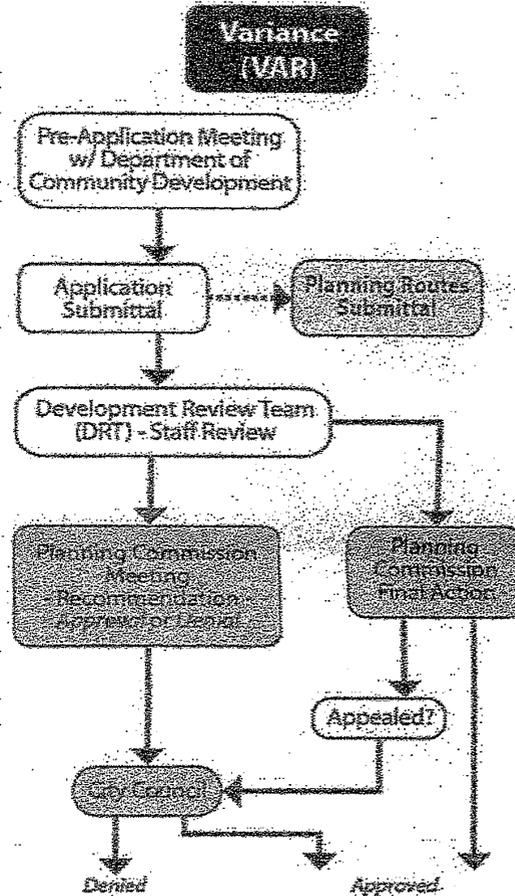
#### C. Application

An application for a Variance shall be made on a form provided by the Department. This application shall be filed at the office of the Department. The application shall be signed, notarized and acknowledged by the owner of record of the property for which the Variance is sought; provided however, that:

1. **Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a Variance application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has entered into a contract with the governmental entity to obtain ownership of the property;
2. **Non-Owner Applicant.** A Variance application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which a Variance is sought. However, interest in that property must exist in a written agreement with the owner of record attached to which is a copy of the Variance application and in which the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application and agrees to honor and be bound by the requested Variance if it is approved and by any conditions of approval attached thereto.

#### D. Successive Applications

1. **Previous Variance Application.** An application for a Variance on property concerning all or any part of a previous application for the same use, a similar use or a less restrictive use which has been denied, or concerning a previous application which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the following periods will have elapsed between the date of the denial or withdrawal and the date of the meeting for which the proposed application would be scheduled in the normal course:



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- a. After the first denial or any withdrawal after public notice has been given – one year.
  - b. After the second or subsequent denial or withdrawal after public notice has been given - two years.
2. **Previous Similar Application.** An application for a Variance concerning all or any part of a previous application for a Special Use Permit or Rezoning for the same use, a similar use or a less restrictive use which has been denied, or concerning a previous application which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the periods described in this Paragraph (1) have elapsed.
3. **Withdrawn Without Prejudice.** The time periods that are described in Paragraphs (1) and (2) above, and that otherwise would become effective because of the withdrawal of an application, shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission or the City Council specifically approves the withdrawal without prejudice.

#### E. Request for Abeyance

An applicant who wishes to have an application held in abeyance following the notice and posting of a hearing before the Planning Commission or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation. The Planning Commission may not grant to an applicant, and the City Council may not grant to an aggrieved person, more than two continuances on the same matter, unless the Commission or Council determines, upon good cause shown, that the granting of additional continuances is warranted.

#### F. Drawings and Plans Required

Plans describing the proposed development of the property shall be submitted with the application. Guidelines for the preparation of the site development plan, floor plans and building elevations are available in the Department. Complete working drawings are not necessary; however, improvements, streets, landscape areas and similar items must be shown. Preliminary drawings must contain sufficient information to permit the determination of compliance with good planning practices, applicable standards and ordinances.

#### G. Public Hearing and Action

1. **Hearing.** The Planning Commission shall hold a public hearing upon each application for a Variance within 65 days after the application is properly filed.
2. **Notice**
  - a. **Notice Provided.** Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:
    - i. Publishing the notice in a newspaper of general circulation within the City; and
    - ii. Mailing a copy of the notice to:
      - A) The applicant;
      - B) Each owner of real property located within a minimum of one thousand feet of the property described in the application;
      - C) Each tenant of any mobile home park that is located within one thousand feet of the property described in the application;
      - D) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this Paragraph (2);
      - E) Any advisory board which has been established for the affected area by the City Council; and
      - F) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.
  - b. **Names Provided.** The Department shall provide, at the request of the applicant, the name, address and phone number of any person notified pursuant to Subparagraph (a)(ii)(F) above.
  - c. **Additional Notice.** The Department may give additional notice of the hearing by expanding the area of notification or using other means of notification or both. The Department shall endeavor to provide any additional notice at least 10 days before the date of the hearing.
3. **Hearing.** The Planning Commission shall conduct a public hearing on the application. In its discretion and for good cause, the Planning Commission may hold the application in abeyance for further study. However, subject to the provisions of State law, the Commission may not grant to an applicant more than two continuances on the same

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matter, unless the Commission determines, upon good cause shown, that the granting of additional continuances is warranted. Following the hearing or hearings, the Planning Commission shall make a decision to approve, approve with conditions, or deny the Variance application. The decision shall be based upon evidence that makes the grant or denial of the Variance appropriate. The decision shall either be a final decision or a recommendation, as determined in accordance with Subsection (J).

4. **Conditions of Approval or Recommendation.** In approving or recommending the approval of a Variance, the Planning Commission may impose any conditions, restrictions or limitations as deemed necessary to meet the general purpose and intent of this Title and to ensure that the public health, safety and general welfare are being maintained.
5. **Notice of Decision.** The Planning Commission shall provide written notice of each decision on a Variance application, which shall include the reasons for the decision and, if the decision is to recommend approval of the Variance, any modifications, conditions or limitations that the Planning Commission may impose or recommend to be imposed in connection with the approval. The notice shall be provided to the owner, developer or agent.

#### H. Precedents

The fact that a Variance for the same or similar use has been granted previously for the subject property or nearby property is a factor to be considered, but is not determinative.

#### I. Burden of Proof

The applicant bears the burden of proof to establish that the approval of a Variance is warranted.

#### J. Appeals

1. **Denials Generally.** Except as otherwise provided in Paragraph (3), a decision by the Planning Commission to deny a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, the applicant appeals the decision by written request filed with the City Clerk. Pursuant to LVMC 19.16.010(C), City Council may establish a fee to be paid in connection with the filing of an appeal, and the amount of any fee so established shall be set forth in the fee schedule.
2. **Approvals Generally.** Except as otherwise provided in Paragraph (3), a decision by the Planning Commission to approve a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, a member of the City Council requests that the item be reviewed by the Council, or an aggrieved person appeals the decision by written request filed with the City Clerk. For purposes of this Paragraph (2), an "aggrieved person" means any property owner within the area of notification for the Planning Commission hearing, as well as anyone who appeared, either in person, through an authorized representative or in writing, before the Planning Commission regarding the application. Pursuant to LVMC 19.16.010(C), the City Council may establish a fee to be paid in connection with the filing of an appeal, and the amount of any fee so established shall be as set forth in the fee schedule.
3. **Automatic Review by City Council.** With respect to any Variance application related to and filed in connection with an application for a General Plan Amendment; an application for rezoning; or an application for a Site Development Plan Review or Special Use Permit that requires final action by the City Council, the decision by the Planning Commission, whether an approval or denial, constitutes a recommendation to the City Council, which shall make the final decision concerning that Variance application.

#### K. City Council Public Hearing and Action

1. **Notice and Hearing.** The City Council shall conduct a public hearing on any Variance application which is appealed or forwarded to the Council for final action. The City Clerk is authorized to consolidate all appeals or requests for review that have been filed regarding a particular application, or to schedule them in sequence or otherwise, in which case the City Council may hear the items separately or consolidate them for purposes of hearing, as the Council deems appropriate. The City Clerk shall mail written notice of the Council hearing, at least ten days before the hearing, to the property owners who were notified by mail of the Planning Commission hearing, or to the current owners of record in case of properties whose ownership has changed in the interim.
2. **Penalty.** If a structure which is the subject of a Variance application has been or is being constructed without a building permit and is in violation of any of the provisions of this Title, the City Council, in granting the Variance, may impose a penalty in an amount that does not exceed 10 percent of the value of the structure as determined in accordance with the City's Administrative Code.

**3. City Council Decision.** The City Council may review the Variance application de novo, and has the authority to reverse, modify, or confirm any action of the Planning Commission. In making a decision regarding a Variance application, the City Council shall consider the decision of the Planning Commission and the evidence presented at the public hearing and shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020 Action by the City Council is final for purposes of judicial review. In the case of an appeal, the City Council:

a. May not grant to an aggrieved person more than two continuances on the same matter, unless the Council determines, upon good cause shown, that the granting of additional continuances is warranted; and

b. Must render its decision within forty-five days, unless otherwise agreed to by the person filing the appeal.

**4. Notice of City Council Decision.** The City Council shall provide written notice of its decision, which shall include the reasons for the decision and, if the decision is to approve the Variance, any modifications, conditions or limitations that the Council may impose. The notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

#### **L. Determinations**

1. In order to recommend approval of, or to approve a Variance application, the Planning Commission or City Council must determine that the Variance is warranted both under State law and this subchapter. The minimum State law standards are set forth in Paragraph (2) below.

2. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the 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.

#### **M. Premature Use of Property**

The issuance of a building permit or business license for a development or structure that requires a Variance, before a Variance is approved, does not replace or otherwise affect the Variance requirement.

#### **N. Revocation**

1. **Notice.** A Variance may be revoked or modified by the Planning Commission or the City Council, whichever body took final action to approve the Variance. Such action must be preceded by a hearing, written notice of which must be delivered to the owner, developer, or both, at least ten days prior to any hearing. Notice may be delivered in person or by certified mail, return receipt requested, mailed to the address shown in the records of the Clark County Assessor.

2. **Grounds.** A Variance may be revoked or modified for cause, including a finding of one or more of the following:

a. That the Variance was obtained by misrepresentation or fraud;

b. That the development or structure is not in compliance with one or more of the conditions of approval; or

c. That the development or structure permitted by the Variance is in violation of any statute, ordinance, law or regulation.

3. **Notice of Decision.** Written notice of a decision regarding the revocation or modification of a Variance shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

4. **Appeal.** In the case of a decision by the Planning Commission to revoke or modify a Variance that was approved as final action by the Commission, the appeal provisions of Subsections (J) and (K) of this Section shall apply.

#### **O. Termination**

##### **1. Expiration for Failure to Exercise**

a. A Variance which will require the construction of a new building and which is not exercised within the approval period shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to

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approve the Variance. An extension of time may be granted only if application therefor is made prior to the expiration of the approval period. For purposes of this Subparagraph (a):

i. The "approval period" for a Variance is the time period specified in the approval, if one is specified, and two years, otherwise.

ii. A Variance is exercised upon the issuance of a building permit for the new construction.

b. A Variance which will not require the construction of a new building and which is not exercised within the approval period shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance. An extension of time may be granted only if application therefore is made prior to the expiration of the approval period. For purposes of this Subparagraph (b), a Variance is exercised upon the approval of a business license to conduct the activity, if one is required, or otherwise, upon the issuance of a no-work certificate of occupancy (where no structural work is required) or the approval of a final inspection for tenant improvements.

**2. Voiding of Variance.** A Variance to allow a use that is not permitted in a particular zone shall be void without further action if :

a. The use approved by the Variance ceases for a period of twelve months or more; or

b. A building permit that is required for the exercise of the Variance is allowed to expire and no new permit has been issued (or a reinstatement or reissuance of the expired permit) within the "approval period" specified in Subparagraph (1)(a)(i) of this Subsection (O).

*(Ord. 6664 § 9, 12/19/18)*

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From: Seth Davis

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**Attachment 2:**  
***Enterprise Citizens Action v. Clark Co. Comm'rs,***  
**112 Nev. 649, 918 P.2d 305 (Nev. 1996).**

**Enterprise Citizens Action Committee v. Clark County Bd. of Com'rs, 112 Nev. 649 (1996)**

918 P.2d 305

112 Nev. 649  
Supreme Court of Nevada.

ENTERPRISE CITIZENS  
ACTION COMMITTEE, Appellant,

v.

CLARK COUNTY BOARD OF COMMISSIONERS,

a Political Subdivision of the State of  
Nevada; Union Pacific Railroad Company, a  
Nevada Corporation; and Inland Properties,  
Inc., a Nevada Corporation, Respondents.

No. 25357.

|

May 30, 1996.

|

Rehearing Denied Sept. 5, 1996.

**Synopsis**

Opponent of zoning variance which allowed applicants to operate concrete/asphalt batch plant on property petitioned for writ of mandamus, seeking to overturn decision of county board of commissioners granting variance. The Eighth Judicial District Court, Clark County, Donald Mosley, J., denied petition, and opponent appealed. The Supreme Court, Rose, J., held that: (1) applicants presented no substantial evidence of hardship or difficulty to board warranting granting of variance; (2) batch plant was not incidental to sand and gravel pit and, in any event, sand and gravel pit was not "permitted use"; (3) board erred in failing to provide deference to master plan; and (4) opponent was not entitled to attorney fees.

Ordered accordingly.

Shearing, J., filed dissenting opinion in which Springer, J., joined.

Procedural Posture(s): On Appeal.

## West Headnotes (10)

- [1] Zoning and Planning ⇔ Variances and exceptions  
Zoning and Planning ⇔ Variances and exceptions

Grant or denial of variance, like grant or denial of request for special use permit, is discretionary act, and if it is supported by substantial evidence, there is no abuse of discretion; "substantial evidence" is evidence which reasonable mind might accept as adequate to support conclusion.

1 Case that cites this headnote

- [2] Zoning and Planning ⇔ Variances and exceptions

Zoning and Planning ⇔ Questions of fact; findings

Function of district court, in reviewing grant or denial of variance by county board of commissioners, is to ascertain as matter of law whether there was substantial evidence before board which would sustain board's actions, and function of Supreme Court on subsequent review is same as that of district court; both courts are limited to record made before board in reviewing board's decision.

- [3] Zoning and Planning ⇔ Presumptions and burdens

No presumption of validity attaches to decision of district court that does not hear additional evidence in reviewing zoning decision made by municipality.

- [4] Mandamus ⇔ Proceedings to procure and grant or revoke licenses, certificates, and permits

Zoning and Planning ⇔ Business, commercial, and industrial uses in general

Applicants for variance allowing construction and operation of concrete/asphalt batch plant provided no evidence to prove that unusual lot shape, abutting railroad tracks, nearby manufacturing zoning, and dedications on abutting boulevard created hardship or difficulty warranting grant of variance and, thus, opponent of variance should have been granted mandamus relief. Clark County, Nevada, Code § 29.66.030.

**Enterprise Citizens Action Committee v. Clark County Bd. of Com'rs, 112 Nev. 649 (1996)**  
**918 P.2d 305**

**[5] Zoning and Planning ⇔ What constitutes in general**

Although unusual shape of property, dedications on abutting boulevard, abutting railroad tracks, and nearby industrial zoning qualified under county code as circumstances which might create exceptional difficulties to or undue hardships upon property owner, they did not ipso facto create difficulty or hardship warranting variance; it was incumbent upon owner to prove what hardship or difficulty was, i.e. that without variance, owner would be deprived of all beneficial uses, value of property would decrease significantly, reasonable return of property would not be realized, land would be virtually useless, or no feasible use could be made of land. Clark County, Nevada, Code § 29.66.030.

**[6] Zoning and Planning ⇔ Particular accessory uses**

Concrete/asphalt batch plant was not "incidental" to sand and gravel pit, as urged in support of claim that batch plant was permitted use of property; batch plant could operate in any location and did not have to be adjacent to sand and gravel pit, plant did not serve gravel pit by assisting or aiding in excavation of gravel, but was required only to mix necessary components to create new product, and addition of plant might have expanded owners' business so extensively that they would be operating new business.

**[7] Zoning and Planning ⇔ Particular accessory uses**

Even if concrete/asphalt batch plant were incidental to sand and gravel pit, batch plant would still have been disallowed under zoning regulations allowing accessory uses, buildings and structures if clearly incidental to "permitted use," as sand and gravel pit was not "permitted use" in area as zoned but, rather, was conditional use requiring permit. Clark County, Nevada, Code § 29.06.030(B, C).

**[8] Zoning and Planning ⇔ Uses in general**

Master plan of community is standard that commands deference and presumption of applicability, but should not be viewed as legislative straightjacket from which no leave can be taken. <sup>1</sup>N.R.S. 278.250.

1 Case that cites this headnote

**[9] Zoning and Planning ⇔ Business, commercial, and industrial uses in general**

Landowner and operator of sand and gravel pit, in applying for "down-zone," requesting conditional use permit for pit, and requesting variance for concrete/asphalt batch plant, made improper attempt to circumvent master plan, and county board of commissioners' decision to grant variance completely ignored master plan, which expressly prohibited manufacturing on property; landowner and operator should have requested that property be rezoned to allow manufacture of concrete and/or asphalt on property, and board's permitting them to conduct such manufacturing indirectly amounted to spot zoning and provided no deference to master plan. <sup>1</sup>N.R.S. 278.250.

2 Cases that cite this headnote

**[10] Zoning and Planning ⇔ Damages**

Statute providing for actual damages to party which submitted application requesting improvement or change of use on its property after responsible agency acts arbitrarily in imposing some type of restriction on use in excess of agency's statutorily derived powers does not provide for relief in form of actual damages for party challenging application, even if agency acted arbitrarily in granting application. N.R.S. 278.0233.

**Attorneys and Law Firms**

**\*\*306 \*649 Hayes & Gourley, Las Vegas, for Appellant.**

**Enterprise Citizens Action Committee v. Clark County Bd. of Com'rs, 112 Nev. 649 (1996)**

918 P.2d 305

Stewart L. Bell, District Attorney, Johnnie B. Rawlinson, Chief Deputy District Attorney, Clark County; Dominic P. Gentile, Ltd. and James N. Mancuso, Las Vegas, for Respondents.

**\*651 OPINION**

ROSE, Justice:

For many years, Union Pacific Railroad Company has owned a 180 acre tract of real property adjacent to its railroad track and easement in Clark County Nevada. The property is zoned for Residential Estates and Union Pacific has twice tried to change this zoning, first in 1989 to Industrial Without Dwellings, and then to Light or Designed Manufacturing in 1991. Both applications were denied.

By 1993, Inland Properties, Inc. had agreed to operate a sand and gravel pit on the real property at issue, and respondents Union Pacific Railroad Company and Inland Properties, Inc. (respondents) filed for a zone change, conditional use permit, and zone variance, all of which were granted by the Clark County Board of Commissioners (Board). Appellant Enterprise Citizens Action Committee (appellant), a committee comprised of people who own property surrounding respondents' property at issue, filed a petition for a writ of mandamus in district court seeking to overturn the Board's decision. The district court denied the petition for a writ of mandamus. We conclude that the \*\*307 district court's denial of the writ petition was improper.

**FACTS**

Respondents filed applications for a zone change, a conditional use permit, and a zone variance with the Clark County Department of Comprehensive Planning on June 15, 1993. At issue was an approximately 180 acre parcel of land owned by the respondents and located near Jones Boulevard south of the Blue Diamond Highway in Las Vegas. <sup>1</sup>

\*652 Respondents first requested that the property be "down-zoned" from R-E (Rural Estates) to R-U (Rural Open Land). In conjunction with this "down-zoning," respondents filed a second application for a conditional use permit to operate a sand and gravel pit on the property. Finally, respondents requested a zone variance in order to operate

a concrete and asphalt batch plant in conjunction with the sand and gravel pit. <sup>2</sup> The only application at issue is the one requesting the variance because appellant admitted that the "down-zoning" from R-E to R-U was in conformity with the master plan <sup>3</sup> and the grant of the conditional use permit for the sand and gravel pit was in conformity with the Clark County Code.

The Board held a hearing regarding the three applications. Appellant opposed the variance because it permitted an industrial use of the property. It cited concerns regarding noise, dust particle control, traffic, and the safety of the children in the neighborhood. Respondents presented environmental studies indicating that potential problems cited by the appellant would be mitigated and that the project would have a favorable impact on the economic growth of the city. The Board voted 4-2 in favor of permitting the "down-zoning," granting the conditional use permit, and granting the variance.

Appellant filed a petition for a writ of mandamus in district court requesting that the Board's decision be overturned. It argued that a variance permitting the construction and operation of a concrete/asphalt batch plant would result in a high-intensity manufacturing use of the property in contravention of the master plan which had zoned the property for residential use. It also \*653 argued that respondents had not demonstrated that they suffered any hardship or difficulty which warranted the Board's granting of a variance. The district judge, however, stated that respondents provided the Board with sufficient evidence of a hardship which warranted the variance. Additionally, the district judge felt that while it may have been sleight of hand for respondents to request \*\*308 the "down-zoning," use permit, and variance rather than requesting a zoning change, he concluded that it was clever lawyering, it was successful, and it was not illegal.

Appellant then filed a timely appeal requesting this court to reverse the district court's order denying its petition for a writ of mandamus.

**DISCUSSION**

*Respondents presented no substantial evidence of hardship or difficulty to the Board which warranted the granting of a variance.*

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[1] The grant or denial of a variance, like a grant or denial of a request for a special use permit, is a discretionary act. See *City of Las Vegas v. Laughlin*, 111 Nev. 557, 558, 893 P.2d 383, 384 (1995). "If this discretionary act is supported by substantial evidence, there is no abuse of discretion." *Id.* Substantial evidence is evidence which "a reasonable mind might accept as adequate to support a conclusion." <sup>¶</sup>*State, Emp. Security v. Hilton Hotels*, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986).

[2] [3] The function of the district court is to ascertain as a matter of law whether there was substantial evidence before the Board which would sustain the Board's actions, and the function of this court at this time is the same as that of the district court. *McKenzie v. Shelly*, 77 Nev. 237, 242, 362 P.2d 268, 270 (1961). Like the district court, this court is limited to the record made before the Board in reviewing the Board's decision. *Laughlin*, 111 Nev. at 558, 893 P.2d at 384. Finally, "no presumption of validity attaches to the decision of a district court that does not hear additional evidence in reviewing a zoning decision made by a municipality." <sup>¶</sup>*City of Reno v. Harris*, 111 Nev. 672, 677, 895 P.2d 663, 666 (1995). Because the district court heard arguments regarding whether there was substantial evidence to sustain the Board's actions but heard no additional evidence, the district court's decision will receive no presumption of validity.

[4] We note, preliminarily, that the district court properly subjected the Board's actions to a substantial evidence standard of \*654 review. However, after reviewing the record made before the Board, we conclude that respondents presented no substantial evidence to the Board which would sustain the Board's action granting the variance, and therefore we conclude that the Board abused its discretion in granting the variance and that the district court erred in denying appellant's petition for a writ of mandamus.

Clark County Code Section 29.66.030 grants the planning commission the power

where by reason of exceptional narrowness, shallowness or shape of a specific property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of

such piece of property, the strict application of such regulation enacted upon this title would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property, to authorize upon an application relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and under such conditions as such board may deem necessary to assure that the general purpose and intent of this title will be observed, public safety and welfare secured and substantial justice done.

Therefore, respondents had the burden to prove that because of the narrowness, shallowness, topographic conditions or other exceptional conditions of the property, the strict application of the zoning regulations would result in "exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property."<sup>4</sup> See \*\*309 *Constantino v. Zoning Hearing Bd.*, 152 Pa.Cmwith. 258, 618 A.2d 1193, 1196 (1992) (concluding that the applicant has the burden to prove the hardship); <sup>¶</sup>*Wells & Highway 21 Corp. v. Yates*, 897 S.W.2d 56, 62 (Mo.Ct.App.1995) (concluding that the applicant has the burden of proving the hardship). Only after respondents met this burden could the Board properly grant the variance.

This court has not previously provided a definition of hardship, \*655 but many other courts and authorities have done so. See 101A C.J.S. *Zoning & Land Planning* § 242 (1979) (hardship exists where the application of the regulation to property greatly decreases or practically destroys its value for any permitted use, so as to deprive the owner of the land of all beneficial use of the land); <sup>¶</sup>*Wells & Highway 21 Corp.*, 897 S.W.2d at 62 (hardship requires showing that land cannot yield reasonable return if used only for the purpose allowed in that zone); *Concerned Residents v. Zoning Bd. of App.*, 634 N.Y.S.2d 825, 826 (App.Div.1995) (hardship requires "dollars and cents" proof that property

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cannot yield reasonable return as currently zoned); *Miller v. Zoning Hearing Bd. of Ross Tp.*, 167 Pa.Cmwith. 194, 647 A.2d 966, 969 (1994) (hardship requires showing that land is virtually useless as it is presently zoned); *State v. Winnebago County*, 540 N.W.2d 6, 9 (Wis.Ct.App.1995) (hardship is a situation where, in the absence of a variance, no feasible use could be made of the land). While we are not compelled to employ any of these definitions, we conclude that respondents have failed to prove, pursuant to any of these definitions, that the strict application of the zoning regulations would result in a hardship or difficulty which merited the granting of the variance.

On June 15, 1993, respondents submitted their zone change application, conditional use permit application, and variance application. The variance application requires the applicant to answer five questions regarding the variance. The questions, and respondents' answers (in italics), were as follows:

1. What special circumstances or conditions exist, applicable to the property or building referred to in the application, which you believe justify a change of restrictions (exceptional narrowness, shallowness, shape or topography?)

*a. Unusual lot shape resulting from railroad and street alignments.*

*b. Excess dedication required for arterial road (Jones Blvd.).*

2. Explain any other special circumstances or hardships (not pertaining to the lot) which you believe justify a change in restrictions.

*Site is near existing industrial uses and abuts railroad and M-1 zoning, making it unsuitable for residential use.*

3. Explain why the granting of this application is necessary for the preservation and enjoyment of substantial property rights.

*Facility will meet all applicable health and safety standards. Traffic impacts will be mitigated in accordance with traffic study.*

- \*656 4. Explain how the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

*This area is master planned for R-U land uses by the recently-adopted Clark County land use guide for Enterprise.*

5. Explain how the granting of this application will not adversely affect the Clark County Comprehensive Plan.

*[No answer given]*

Respondents argued to the district court and to this court that their answers on the variance application provided substantial evidence to prove that a hardship existed to justify the granting of the variance. However, we conclude that these answers were at most merely conclusory statements that a hardship or difficulty existed and that respondents presented no evidence that they were subjected to exceptional practical difficulties or exceptional and undue hardships which warranted the variance.

[5] Respondents stated that the unusual shape of their property, the excess dedication \*\*310 required for Jones Boulevard,<sup>5</sup> the abutting railroad tracks on the western boundary, and the industrial zoning west of the railroad tracks were all special circumstances which they believed made the property unsuitable for residential use and justified a variance. According to Clark County Code Section 29.66.030, these reasons qualify as circumstances which *may* create exceptional difficulties to or undue hardships upon the property owner. However, these circumstances do not *ipso facto* create a difficulty or hardship which warrants a variance, and it is incumbent upon the property owner to prove what the hardship or difficulty is, i.e., the owner of the property would be deprived of all beneficial uses of the land if the land was used solely for the purpose allowed in that zone, the value of the property would decrease significantly if the property was used solely for the purpose allowed in that zone, a reasonable return on the property would not be realized unless the variance was granted, the land is virtually useless as zoned, or no feasible use could be made of the land as zoned.

Respondents had an opportunity to provide proof of a hardship or difficulty in their answer to question number three on the zoning variance application. The question asked respondents to explain why the variance was required to preserve the enjoyment \*657 of the property rights, in essence asking why the circumstances provided in the answers to questions one and two created a hardship or difficulty which required the granting of the variance. Respondents' answer stated only that the facility would meet

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health and safety standards and that traffic impacts would be mitigated. This answer was non-responsive and failed to provide any evidence that a hardship or difficulty existed which warranted the granting of the variance which would allow manufacturing in a residential district.

Respondents never explained why the circumstances listed in the answers to questions one and two made the property unsuitable for its zoned residential use and therefore valueless without a variance, especially in light of the fact that people owned residences in the immediate surrounding area. Moreover, respondents had already requested a conditional use permit to maintain a sand and gravel pit on the property which would have provided respondents with a conditionally permitted, non-residential use of the property. Respondents never alleged or argued that they could not receive a reasonable return from the operation of the sand and gravel pit absent the variance permitting the batch plant.

Additionally, respondents failed to present any evidence at the Board hearing to establish that the circumstances claimed by them created a hardship or difficulty which warranted the granting of the variance. Respondents presented the Board with five different reports addressing environmental, geological, economic, noise, and traffic impacts of the project. Respondents stressed to the Board that the project would have minimal noise impact, that traffic and safety concerns would be mitigated, and that the project would be a boon to the economy, creating both jobs and significant tax revenues. However, at no time did the Board inquire about or did respondents address the issue of why the lot shape, abutting railroad tracks, nearby industrial zoning, or dedications required on Jones Boulevard created a hardship or difficulty which warranted the variance in conjunction with the conditional use permit. In fact, the only two times that hardship or difficulty was even mentioned, the conclusion was that none existed: the opinion of the Board's staff was that no legal hardship existed (although the staff proclaimed that they were not concerned about that fact and recommended granting the variance), and one county commissioner stated that he believed no hardship existed.

Based on the variance application and respondents' testimony to the Board, it is clear that respondents provided no evidence to prove that the unusual lot shape, abutting railroad tracks, nearby manufacturing zoning, and dedications on Jones Boulevard created a hardship or difficulty which warranted the Board to grant a \*658 variance allowing respondents to construct and operate a concrete/asphalt batch plant on

property zoned R-U. Therefore, the district court erred in \*\*311 concluding that respondents had provided the Board with substantial evidence that a hardship existed and in subsequently denying appellant's petition for a writ of mandamus.

*The concrete/asphalt batch plant was not incidental to the sand and gravel pit, and additionally the sand and gravel pit was a conditional use not subject to the provisions allowing accessory uses, buildings and structures.*

[6] Respondents also argued that the concrete/asphalt batch plant was incidental to the sand and gravel business and should therefore be permitted. Respondents' argument fails for two reasons. First, the batch plant was not incidental to the sand and gravel pit. "Incidental" is defined as "something dependent upon, appertaining or subordinate to, or accompanying something else of greater or principal importance, something arising or resulting from something else of greater or principal importance." Black's Law Dictionary 762 (6th ed. 1990).

Other courts have determined that a concrete/asphalt batch plant is not incidental to a sand and gravel pit for several reasons. First, the concrete/asphalt plant can operate in any location and need not be adjacent to the sand and gravel pit. *NBZ Enterprises v. City of Shakopee*, 489 N.W.2d 531, 536 (Minn.Ct.App.1992). Additionally, the concrete/asphalt batch plant does not serve the gravel pit by assisting or aiding in the excavation of the gravel, and is required only to mix necessary components to create a new product, either concrete or asphalt. *Id.* Finally, the addition of the concrete/asphalt batch plant might expand respondents' business so extensively that respondents would be operating a new business. *Medusa Aggregates Co. v. City of Columbia*, 382 S.W.2d 223, 225 (Mo.Ct.App.1994). Therefore, a situation could arise whereby the concrete/asphalt batch plant would not be subordinate to the sand and gravel pit, but just the opposite would occur; the sand and gravel pit would be subordinate to the concrete/asphalt batch plant and would operate to the concrete/asphalt batch plant's benefit, not vice versa. *Id.* Such a situation would make a mockery of the master plan and therefore will not be permitted.

[7] Second, the zoning regulations governing permitted uses of land in an R-U (Rural Open) district states that accessory uses, \*659 buildings and structures, if clearly incidental to the permitted use and placed upon the same lot with a permitted use, will also be permitted. Clark County Code § 29.06.020(B). However, sand and gravel pits are

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conditional uses requiring a permit and are not permitted uses. Clark County Code § 29.06.030(C). The plain and ordinary meaning of Clark County Code Section 29.06.020(B) is that it applies only to accessory uses, building and structures incidental to a permitted use and does not apply to accessory uses, buildings or structures incidental to a conditional use requiring a permit. See *NBZ Enterprises v. City of Shakopee*, 489 N.W.2d 531, 536 (Minn.Ct.App.1992); *Prior Lake Aggregates, Inc. v. City of Savage*, 349 N.W.2d 575, 578-79 (Minn.Ct.App.1984). Therefore, even if the batch plant was clearly incidental to the sand and gravel pit, the concrete/asphalt batch plant would still be disallowed because the sand and gravel pit is not a permitted use in an area zoned R-U.

*Respondents' strategy was an improper attempt to circumvent the master plan, and the Board's decision to grant the variance did not accord substantial deference to the master plan.*

[8] *NRS 278.250* governs many aspects of planning and zoning and provides not only for the adoption of master plans, but also for zoning in accordance with an adopted master plan. The master plan of a community is a "standard that commands deference and a presumption of applicability," but should not be viewed as a "legislative straightjacket from which no leave can be taken." *Nova Horizon v. City Council, Reno*, 105 Nev. 92, 96, 769 P.2d 721, 723 (1989).

[9] The master plan provided that the subject property was originally zoned R-E (Rural Estates), which permitted low density residential use and the raising of crops and of a limited number of animals for noncommercial purposes. Clark County Code § 29.10.010. Manufacturing is not permitted \*\*312 either expressly or by virtue of a conditional use permit in a district zoned R-E or R-U, and in order to conduct manufacturing (and more specifically operate a concrete/asphalt batch plant) on respondents' property, the property would have to be rezoned as M-2 (Industrial Without Dwellings), which expressly permits mixing plants for concrete and asphalt. Clark County Code § 29.42.010(50). Union Pacific had twice previously tried to get the subject property rezoned for manufacturing and had twice failed. In 1989, Union Pacific requested that the property be rezoned as M-2, and the request was denied. In 1991, Union Pacific requested that the property be \*660 rezoned as M-1 (Light Manufacturing) and M-D (Designed Manufacturing), and that request was also denied.<sup>6</sup>

Apparently, due to their failures to have the property rezoned for manufacturing uses, respondents chose the present course of applying for a "down-zone," requesting a conditional use permit for a sand and gravel pit, and also requesting a variance for the batch plants. The district judge sanctioned this conduct, stating that

It may have been sleight of hand, but it's not unlawful. You could argue that it's good lawyering and I think we can ascribe to that, but it was done in a clever manner. It was successful and, as far as I can determine, is not illegal.

However, we conclude that the course chosen by respondents was an improper attempt to circumvent the master plan and that the Board's decision to grant the variance completely ignored the master plan, which expressly prohibited manufacturing on respondents' land.

Taken individually, the three requests made by the respondents were all minor changes which likely did not amount to a non-conforming use of the property. However, taken as a whole, the three requests amounted to a non-conforming use of the property because their effect would have been to allow manufacturing in a district which expressly forbids manufacturing. Because respondents' goal was to manufacture concrete and/or asphalt on the property, they should have requested that the property be rezoned to allow that type of manufacturing.<sup>7</sup>

Additionally, by evaluating respondents' three requests separately and by permitting the manufacturing use, the Board completely ignored the master plan. The Board permitted respondents \*661 to do indirectly what they could not accomplish directly, i.e., manufacture concrete and asphalt in a zoning district which expressly forbids manufacturing. Such a decision amounts to spot zoning and provides no deference to the master plan in violation of this court's ruling in *Nova Horizon v. City Council, Reno*, 105 Nev. 92, 96, 769 P.2d 721, 723 (1989). Therefore, we conclude that the Board erred in granting the variance and that the Board's decision must be overturned.

*Award of Attorney's Fees.*

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[19] Appellant argues that it is entitled to attorney's fees pursuant to NRS 278.0233<sup>8</sup> \*\*313 because it had an interest in real property which might be damaged by the Board's actions. However, the statute indicates that relief in the form of actual damages is available only to the party which submitted the application requesting an improvement or change of use on its property and only after the responsible agency acts arbitrarily in imposing some type of restriction on the use of the property in excess of the agency's statutory derived powers. The statute does not provide for relief in the form of actual damages for a party challenging the application, if indeed the agency acted arbitrarily in granting the application. Therefore, appellant is not entitled to attorney's fees pursuant to NRS 278.0233.

The days are fast disappearing when the judiciary can look at a zoning ordinance and, with nearly as much confidence as a professional zoning expert, decide upon the merits of a zoning plan and its contribution to the health, safety, morals or general welfare of the community. Courts are becoming increasingly aware that they are neither super boards of adjustment nor planning commissions of last resort.

**CONCLUSION**

We conclude that the district court erred in denying appellant's petition for a writ of mandamus for three reasons. First, respondents did not provide substantial evidence to the Board that a hardship or difficulty existed which justified the granting of a variance to allow the concrete/asphalt batch plant. Second, the Clark County Code does not permit accessory uses, buildings, and structures incidental to a conditional use in areas zoned R-U. \*562 Third, the Board of County Commissioners erred by not providing deference to the master plan. Therefore, the order of the district court denying appellant's petition for a writ of mandamus is reversed, and this matter is remanded to the district court with instructions to reverse the Board's decision to grant the variance. We also conclude that appellant is not entitled to attorney's fees.

STEFFEN, C.J., and YOUNG, J., concur.

SHEARING and SPRINGER, JJ., dissent.

SHEARING, Justice, with whom SPRINGER, J., joins, dissenting:

I would affirm the judgment of the district court denying the petition for writ of mandamus and upholding the decision of the Clark County Board of Commissioners.

In 1968, this court stated:

*Coronet Homes, Inc. v. McKenzie*, 84 Nev. 250, 255-56, 439 P.2d 219, 223 (1968). In 1996, decisions regarding land use are much more complicated in the increasingly urban environment of Clark County. This court must be very circumspect about interfering with the decisions made by those who are selected by the people of Clark County to make those decisions.

I agree with the majority that a grant or denial of a variance is a discretionary act which this court must uphold if the discretion is not abused. *Nevada Contractors v. Washoe County*, 106 Nev. 310, 314, 792 P.2d 31, 33 (1990). I believe that there was substantial evidence presented to support the grant of the variance under Clark County Code Section 29.66.030 and that the Clark County Board of Commissioners did not abuse its discretion.

Section 29.66.030 authorizes the Commission to grant a variance to relieve a property owner from the zoning regulation when "such regulation ... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships, upon, the owner of such property." The plot plans showing the long, narrow shape of the property abutting \*\*314 the railroad tracks and the photographs showing the railroad tracks, the tower, the gravel pit and the existing structures on the other side of the railroad tracks, together, make it clear that the property is not suitable for residential zoning. The photographs alone testify to the "exceptional practical difficulties," and the "exceptional and \*663 undue hardships," in requiring the owner to keep the land for residential use.

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The complainants did not even raise the issue of lack of difficulty or hardship. They raised numerous other objections which the majority of the Commissioners obviously thought had been adequately addressed by the property owner and by the conditions to the variance imposed by the Commission. I do not believe that this court can conclude as a matter of law that the Clark County Board of Commissioners abused its discretion.

property had previously been turned down or that three separate requests led to the grant of the variance. Changing an R-1 zoning to a zoning permitting manufacturing is quite different from granting a variance on a particular parcel that has unique problems. Granting an M-2 zoning could lead to a change in the entire character of the area, while a variance on a parcel is unlikely to do so.

I disagree most emphatically that any adverse inferences should be drawn from the fact that M-2 zoning for the

**All Citations**

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**Footnotes**

- 1 Because the shape of the property at issue and the type of zoning surrounding the property are important to this opinion, both must be explained. The property is almost triangular in shape, but is better defined as a trapezoid, with the northern and southern boundaries running parallel to each other, the eastern boundary running perpendicular to the northern and southern boundary, and the western boundary running southwest to northeast, resulting in a northern boundary only about one third the length of the southern boundary. The dimensions of each boundary were not provided to this court, but in general terms if the northern boundary is one unit long, then the western boundary is four and one-half units long, the southern boundary is three units long, and the eastern boundary is four units long. The property has railroad tracks abutting the entire western boundary of the property. M-1 (Light Manufacturing) zoning extends directly west of the railroad tracks for 1,000 feet. All of the property located west of the M-1 zoning is zoned R-E (Residential Estates). The southern boundary is abutted by a road, and all of the property located south of that road is zoned R-E. The eastern boundary of the property is abutted by Jones Boulevard, and it appears that the property located east of Jones Boulevard is zoned for residential use. Finally, the northern boundary of the property is abutted by Serene Avenue, and it appears that the property located north of Serene Avenue is zoned for residential use. (This court was not provided with a map detailing what type of residential zoning existed on the property located directly east and north of the property at issue. However, residents from those areas testified in front of the Board of County Commissioners that they owned homes in those areas.)
- 2 All three applications were filed at the same time.
- 3 The property at issue was designated by the master plan as a Community 3 District. Appropriate land uses described for a Community 3 District are residential developments with densities equal to or lesser than two dwellings per acre, agricultural, recreational, open space and resource production land use. Property zoned both R-E and R-U satisfy these requirements.
- 4 Respondents argue that at the hearing in front of the Board, appellant did not challenge the variance on the grounds that no legal hardship or difficulty existed, and instead only complained about the noise, traffic, dust, and safety impacts of the project. However, respondents had the burden to prove that a hardship or difficulty existed, and therefore it was not incumbent upon appellant to raise the issue at the hearing.
- 5 Respondents never stated what "excess dedication" means.

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- 6 Both times manufacturing zoning was requested, Union Pacific proceeded on its own because at those times Inland Properties, Inc. held no ownership interest in the property.
- 7 An application for rezoning requires the submission of nine separate reports addressing the impact of the rezoning on the surrounding area. Clark County Code § 29.68.025(E). Additionally, non-conforming use requests, i.e., zone changes, are required to have at least one public hearing before the Planning Commission and at least one public hearing before the Board of County Commissioners. Clark County Code § 29.68.030. By cloaking their request for a zone change as one for a variance in conjunction with a conditional use, respondents received three major benefits. First, they were not required to submit the nine impact reports to the Planning Commission and the Board of County Commissioners, thereby lessening their burden of production. Second, they avoided having to request manufacturing zoning from the Planning Commission, which had twice before denied respondents' same request. Third, they avoided the public hearing in front of the Planning Commission which would have exposed their plan to greater scrutiny both by the Planning Commission and by citizens.
- 8 NRS 278.0233 states:

Any person who has a right, title, or interest in real property, and who has filed with the appropriate state or local agency an application for a permit which is required by statute or an ordinance, resolution or regulation adopted pursuant to NRS 278.010 to 278.630, inclusive, before that person may improve, convey or otherwise put the property to use, may bring an action against the agency to recover actual damages caused by:

(a) Any final action, decision or order of the agency which imposes requirements, limitations, or conditions upon the use of the property in excess of those authorized by ordinances, resolutions, or regulations adopted pursuant to NRS 278.010 to 278.630, inclusive, in effect on the date the application was filed and which:

- (1) is arbitrary or capricious; or
- (2) is unlawful or exceeds lawful authority.

**Attachment 3:  
City of Las Vegas Department of Planning  
“Variance Submittal Requirements”, Revised  
07/19/2016**



## DEPARTMENT OF PLANNING

### VARIANCE SUBMITTAL REQUIREMENTS

**PRE-APPLICATION CONFERENCE:** A pre-application conference with a representative from the Department of Planning is required before submitting an application. It is the responsibility of the applicant to schedule the pre-application conference by submitting a completed Electronic Pre-Application Conference Request form through the CLVEPLANS system, as well as accessing the CLVEPLANS system to upload required drawings and documents and completing the upload task. See the Planning Commission Meeting Schedule for submittal closings dates and Planning Commission meeting dates.

**PRE-APPLICATION SUBMITTAL CHECKLIST:** A Submittal Checklist with an **original signature** by the planner conducting the Pre-Application Conference is required. The Submittal Checklist shall be uploaded into the CLVEPLAN project's documents folder.

**APPLICATION/PETITION FORM:** The applicant shall enter in the required information into the associated fields located within the CLVEPLAN Project "Application" tab. Furthermore, the applicant is responsible for certifying that they are the applicant and that the information submitted with the application is true and accurate to the best of their knowledge and belief and that they understand that the City is not responsible for inaccuracies presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. Furthermore, the applicant must certify that they are owner or purchaser (or option holder) of the property involved in the application, or lessee or agent fully authorized by the owner to make the submittal. The City reserves the right to request a completed Application/Petition Form if required. The application shall be signed, notarized and acknowledged by the owner of record of each parcel of property. Non-Property Owner: An application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which the Variance is sought. However, interest in that property must exist in a written agreement with the owner of record, attached to which is a copy of the Variance application and in which the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application and agrees to be bound by the requested Variance.

**DEED & LEGAL DESCRIPTION:** In order to verify ownership, a copy of the recorded deed(s) for the subject property(ies), including exhibits and attachments, is required. The deed and all attachments must be legible. In most cases, the legal description on the deed is sufficient.

**JUSTIFICATION LETTER:** A detailed letter that explains the request, the intended use of the property, and how the project meets/supports existing City policies and regulations is required.

**FEES:** \$300 plus \$500 for notification and advertising costs  
plus \$30 for recording of Notice of Zoning Action

**ALL PLANS SUBMITTED MUST BE NO SMALLER THAN 11x17 AND NO LARGER THAN 24x36.**

**SITE PLAN:** (6 folded and 1 rolled, colored)\* draw to scale and make legible: the entire subject parcel(s), all proposed and existing structures, utility easements and locations, signage, and adjacent streets. **Colors to Use:** residential buildings-YELLOW; multi-family buildings-ORANGE; commercial buildings-PINK; landscaping-GREEN; pavement-GRAY; industrial building-PURPLE; public building-BLUE. Site Plans must include:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> PROPERTY LINES CALLED OUT | <input type="checkbox"/> ADJACENT LAND USES/STREETS | <input type="checkbox"/> PARKING ANALYSIS          |
| <input type="checkbox"/> DIMENSIONS (ACTUAL)/SCALE | <input type="checkbox"/> LANDSCAPE AREAS            | <input type="checkbox"/> BUILDING SIZE (SQ. FT.)   |
| <input type="checkbox"/> STREET NAMES              | <input type="checkbox"/> VICINITY MAP               | <input type="checkbox"/> PROPERTY SIZE (SQ. FT.)   |
| <input type="checkbox"/> PARKING SPACES            | <input type="checkbox"/> NORTH ARROW                | <input type="checkbox"/> F.A.R. (FLOOR AREA RATIO) |

- INGRESS/EGRESS
- SCALE
- DENSITY

**\* Additional Site Plans may be required for submittal (to be determined at the Pre-Application Conference).**

**BUILDING ELEVATIONS (IF APPLICABLE):** (1 folded/1 rolled, colored) Draw and make legible: all sides of all buildings on site. **Photographs may be submitted for existing projects only when no outside changes are proposed.** Building Elevations must include:

- DIRECTION OF ELEVATION
- BUILDING MATERIALS & COLORS CALLED OUT
- ELEVATION DIMENSIONS/SCALE

**FLOOR PLAN (IF APPLICABLE):** (1 folded/1 rolled) Draw and make legible: all rooms and/or spaces contained within the building(s) on the site. Floor Plans must include:

- ENTRANCES/EXITS
- MAXIMUM OCCUPANCY (PER U.B.C.)
- ROOM DIMENSIONS/SCALE
- USE OF ROOMS
- SEATING CAPACITY (WHEN APPLICABLE)
- NORTH ARROW

**LASER PRINT:** A reduced, black & white 8.5x11 (high resolution) copy of above required plans and drawings is required.

**STATEMENT OF FINANCIAL INTEREST:** A completed Statement of Financial Interest is required.

**Attachment 4:  
Title 19.16.010 General Requirements**

## 19.16.010 General Requirements

### A. Compliance with General Plan

Except as otherwise authorized by this Title, approval of all Maps, Vacations, Rezonings, Site Development Plan Reviews, Special Use Permits, Variances, Waivers, Exceptions, Deviations and Development Agreements shall be consistent with the spirit and intent of the General Plan.

### B. Application

1. **Time of Filing.** In order to provide sufficient time for the necessary investigation by the Department, Planning Commission and/or its Secretary and agents, a complete application for the request must be filed as follows:
  - a. Applications that are subject to administrative review must be filed in the office of the Department a minimum of 30 days prior to the date of the meeting at which the application would be heard and considered if it Planning Commission and/or City Council review; and
  - b. Applications that are subject to Planning Commission and/or City Council review must be filed in the office of the Department a minimum of 30 days prior to the date of the meeting at which the application is to be heard and considered.
2. **Form.** Application shall be made on forms provided by the Department. Such forms may include forms made available by the City electronically, including forms that are intended to be printed and submitted in hard copy and forms that can be submitted electronically through the City's electronic plans check system.
3. **Notarized Application.** Applications shall be signed, notarized and acknowledged by the owner of record of the property for which the General Plan Amendment, rezoning or development application is sought. If the property has multiple owners, the applicant shall provide the City with a list of all persons and entities with an ownership interest in the property if not all of the owners have signed the application.
4. **Electronic Submissions.** In connection with the submission of an application by someone other than a property owner by means of the City's electronic plans check system, the submission shall be deemed to be a representation by the submitter, upon which the City may rely, that the submitter has verified and can document that the property owner has complied with the signature, notarization and acknowledgment requirements of Paragraph (3) above. Additionally, the Department is authorized to develop an application process by which property owners, other submitters or applications, and notaries may sign application-related documents by means of an electronic signature. In such a case, the functions and requirements associated with the signing of an application, notarization and acknowledgment may be performed and satisfied by means of the electronic signature of a person authorized to perform each such act if that signature, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature. For purposes of this Paragraph (4), "electronic signature" means an electronic symbol or process attached to or logically associated with an application or record and executed or adopted by a person with the intent to sign the application or record.
5. **Pre-application Conference.** A pre-application conference with a designated representative from the Department is required prior to submitting an application for a Tentative Map, General Plan Amendment, Vacation, Rezoning, Major Site Development Plan Review, Special Use Permit, Variance or Development Agreement.
6. **Review of Applications.** Following the submittal of an application, staff shall review the application to verify that the information is complete and fulfills application requirements. If the application is not complete, staff will notify the applicant, and the application will not be scheduled on an appropriate agenda until the application is complete.
7. **Discretion Regarding the Acceptance of Applications.** The Director has the discretion not to accept any application which seeks action that is not available under this Title.

(Ord. 6228 §2, 12/19/12)

### C. Fees

Fees charged related to the filing, processing or noticing of applications under this Chapter shall be in accordance with the Fee Schedule, as adopted pursuant to LVMC 19.00.120(A).

### D. Posting of Signs

#### 1. General

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- a. Notification signs shall be posted by the Department or its authorized agent or contractor. An application will not be processed until the applicant has paid the fees established by the City for the posting of signs.
  - b. Notification signs shall be posted in conformance with NRS 278.260 as supplemented by this section.
  - c. Each notification sign must be of a size not less than four feet high and three feet wide; provided, however, that, in the case of a store frontage, the minimum size of a notification sign placed in the store front window shall be two feet high and two feet wide.
- 2. Number of Signs Required**
- a. One notification sign is required for tracts of five acres or less.
  - b. The Director may determine that additional notification signs should be posted for each additional five acres or portion thereof.
- 3. Timing.** The required number of notification signs shall be posted on the property at least 10 days before the date of the first scheduled public hearing.
- 4. Placement of Signs**
- a. The signs must be posted at a prominent location on the subject property and must be easily visible by the general public.
  - b. Required signs shall remain visible and legible from 10 days prior to the first public hearing and until final action is taken. The applicant is responsible for ensuring compliance with this paragraph once the required signs have been posted.
  - c. The City or its authorized agent or contractor is responsible for removing the notification signs after the final action on the case.
- 5. Inadequate Notice.** If it is determined that adequate notice has not been provided in accordance with this Subsection, the Planning Commission or City Council may hold the application in abeyance or deny the application.
- 6. Illegal Removal of Signs.** It is unlawful to intentionally or knowingly remove a notification sign that has been posted pursuant to this Subsection or conceal the sign message.

#### **E. Neighborhood Meetings**

1. General.
  - a. A neighborhood meeting may be required in connection with an application under this Chapter (a "mandatory meeting"). In addition, a neighborhood meeting may be held on a voluntary basis in connection with an application under this Chapter (a "voluntary meeting"). The purpose of a mandatory meeting is to provide details regarding an application under this Chapter to property owners and residents within the area of the property that is subject of the application, where the application requires such a meeting. A voluntary meeting regarding an application may have a similar purpose, as well as other purposes intended by an applicant.
  - b. A mandatory meeting shall be conducted by the applicant or representative for the associated application, and may be attended by representatives from the City to monitor the results. Each such meeting shall be conducted in accordance with meeting procedures that have been established by the Department, posted online, and otherwise made available upon request.
  - c. Compliance with the meeting procedures described in Subparagraph (b) is not required for a voluntary meeting, but is strongly encouraged.
2. Mandatory Meeting Requirement. A mandatory meeting is required for any of the following:
  - a. An application for a General Plan Amendment.
  - b. Except as otherwise specified in Paragraph (3) below, an application that would result in the repurposing of a golf course or an open space that is located within:
    - i. An existing residential development,
    - ii. A development within an R-PD District,
    - iii. An area encompassed by a Special Area plan adopted by the City, or
    - iv. An area subject to a Master Development Plan within a PD District.
  - c. Any other application concerning which the Director, Planning Commission or City Council determines that a mandatory meeting is necessary or appropriate in order to provide for public notice, information, and input in

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furtherance of the public interest.

3. **Exceptions to Mandatory Meeting Requirement.** The requirement for a mandatory meeting under LVMC 19.16.010(E)(2)(b) does not apply to:
  - a. Any project that has been approved as part of the City of Las Vegas Capital Improvement Plan.
  - b. Any project that is governed by a development agreement that has been approved pursuant to LVMC 19.16.150.
  - c. The repurposing of any area that has served as open space pertaining to a nonresidential development where that open space functions as an area for vehicle parking, landscaping, or any similar incidental use.
  - d. The reprogramming of open space recreational amenities that simply changes or adds to the programming or activities at or within that open space.
  - e. The repurposing of any area where the currently required development application or applications to accomplish the repurposing already have been approved by the approval authority, with no further discretionary approval pending.
4. **Notification Requirements.**
  - a. Notice of a mandatory meeting shall be provided in general accordance with the notice provisions and procedures for a General Plan Amendment in LVMC 19.16.030(F)(2), except that:
    - i. The mailing of notice may be done by the applicant or by the City as agreed upon; and
    - ii. Except in the case of a neighborhood meeting required by LVMC 19.16.010(E)(2)(a), no newspaper publication is required.
  - b. All notices are subject to review and approval by the Department prior to mailing.
  - c. Application-related fees and notice-related fees chargeable under the fee schedule, as well as any charges associated with mailing labels, must be paid as applicable prior to notification of the meeting.
  - d. Compliance with this Paragraph (4) is not required for a voluntary meeting, but is strongly encouraged.
5. For purposes of this Subsection (E), "repurposing" includes changing or converting all or a portion of the use of the golf course or open space to one or more other uses, or seeking to do by means of an application under this Chapter.

#### **F. Development Impact Notice and Assessment (DINA)**

1. **Background.** Pursuant to 1999 Statutes of Nevada, Chapter 481, ("Chapter 481"), a person who proposes to develop a project of significant impact is generally required to submit an impact statement to the local zoning authority before specified actions can be taken regarding the project. This Section implements the requirements associated with Chapter 481. The impact statement to be required by the City is identified as a Development Impact Notice and Assessment (DINA), and requires the information described in Chapter 481. The required information includes information regarding vehicle trips, student enrollment, sewage generation, water demand, storm water runoff, distance from public safety facilities, existing and planned capacities of service required for the project, and other anticipated effects of the project.

For the purposes of this Subsection, a project is deemed to be a "project of significant impact" if it would create:

  - a. Tentative maps, final maps or planned unit developments of 500 units or more;
  - b. Tourist accommodations of 300 units or more;
  - c. A commercial or industrial facility generating more than 3,000 average daily vehicle trips; or
  - d. A nonresidential development encompassing more than 160 acres.
2. **Applicability.** This subchapter applies to all development within the City, except for any project:
  - a. Located on property which was the subject of a development agreement with a local government, if the agreement became effective before June 8, 1999; or
  - b. Which was approved before June 8, 1999.
3. **Requirements.** Before scheduling a pre-application conference in accordance with LVMC 19.16.010(B), a person proposing a development of significant impact in connection with an application for tentative map, rezoning, site development plan review, or a special use permit must meet with agencies and service providers from which the information required for a DINA report must be obtained. At the pre-application conference, the applicant must present to the Department staff, on forms provided by the Department, the agency and provider responses that have

been obtained by the applicant. A completed DINA report must be submitted no later than at the time of making an application under this Chapter. The department is authorized to withhold the processing of an application until a completed DINA report has been submitted.

4. **Review.** Action by the City Council concerning a project of significant impact shall be in accordance with Chapter 481. Pursuant to the provisions of Chapter 481, the City Council may approve a project with respect to which the capacities of roads, sources of water supply or facilities for wastewater and flood control will not be sufficient to support the project if the Council requires the person who proposes to develop the project to carry out appropriate measures of mitigation to substantially reduce the impact of the project on those elements of infrastructure.

#### G. Projects of Regional Significance

1. **Determination.** At the earliest stage feasible, the Department shall determine whether a development proposal, proposed zoning map amendment, proposed local land use plan amendment, proposed Special Use Permit, or other proposal qualifies as a "project of regional significance" as that term is defined in LVMC 19.18.020. Where possible, this determination should be made at the time an application is filed for a proposal that requires review at a public meeting.
2. **Assessment and Referral.** Upon determining that a proposal qualifies as a "project of regional significance" by reason of its proximity to the boundary of another municipal corporation or an unincorporated area (the "affected local government"), the Department shall refer the proposal to the affected government(s). The referral shall consist of a description of the proposal, copies of any application materials, and an impact statement that includes at a minimum:
  - a. The number of vehicle trips that the proposal will generate, estimated by applying to the proposal the average trip rates for the peak days and hours established by the Institute of Transportation Engineers (or its successor).
  - b. The estimated number of pupils that the proposal will add to the enrollment of each elementary school, junior high/middle school, and high school that will be impacted by the proposal.
  - c. The distance from the site of the proposal to the nearest facilities from which firefighting, police and emergency services will be provided, including without limitation facilities of a local government that are planned but not yet constructed, and facilities that have been included in a local government's plan for capital improvements prepared pursuant to NRS 278.0226.
  - d. A brief statement setting forth the anticipated effect of the proposal on housing, mass transit, open space and recreation.
3. **Comment by affected Local Government(s).** Upon receipt of a referral, an affected local government shall have 15 calendar days within which to provide comments to the Department. The comments may propose suggestions for the mitigation of any negative impacts of the proposal on the affected local government.
4. **Consideration of Comments.** The Department shall, within its discretion, give consideration to any suggestions for mitigation that have been received from an affected local government and, in accordance therewith, shall require or recommend mitigation of the proposal's potential negative impacts on the affected local government to the maximum practical extent. For purposes of this paragraph, "maximum practical extent" means that under circumstances:
  - a. Reasonable efforts have been made to minimize any negative impacts of the proposal;
  - b. The costs of compliance with the suggestions for mitigation clearly exceed the potential benefits to the public, or would unreasonable burden the proposal; and
  - c. Reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from the failure to implement the suggestions for mitigation.
5. **Report of Findings.** The Department shall prepare a written description of the manner in which the suggestions for mitigation by any affected local government(s) were addressed, and shall include the description with or in the staff report regarding the proposal. The description shall be included in the project file for the proposal. The Department shall send the description to any affected local government that provided comments regarding the proposal, endeavoring to do so by the time that draft staff reports are distributed for the Planning Commission meeting at which the application for the proposal is to be heard.
6. **Interpretation of Notification and Separation Requirements.** For purposes of applying the distance-separation and property-owner notification requirements of this Title, distances shall be measured, and property owners notified, without regard to jurisdictional boundaries.

#### H. Treatment of Certain Tabled Applications

Any application under this Chapter that requires a public hearing and that is tabled at the request of an applicant shall expire six months after the last announced public hearing date, unless:

1. Within that period of time, the applicant has requested that the item be scheduled again for hearing; or
2. The motion to table the application specified otherwise.

After an application has expired in accordance with this Subsection (H), the applicant must submit a new application.

#### I. Recordation of Zoning Actions

In connection with the approval of any application under this Chapter that includes zoning conditions, requirements or limitations, the Department is authorized to record with the County Recorder's Office a notice advising that:

1. Zoning action regarding the property has been taken;
2. Such action is subject to conditions, requirements or limitations; and
3. Inquiry should be made to the City to obtain further information regarding the nature and extent of those conditions, requirements or limitations.

#### J. Reconsideration of Council Action to Deny an Application

1. Action by the City Council to deny an application, where such action is "final action" under the provisions of this Chapter, shall be deemed final action for purposes of judicial review, subject to the provisions of Paragraph (2) below. However, for purposes other than judicial review, City Council action taken pursuant to this Paragraph (1) or Paragraph (2) below shall be subject to the provisions of Paragraphs (3) through (5) below.
2. Any member of the City Council who voted with the majority regarding an application referred to in Paragraph (1) above may, at the same meeting at which the action was taken, request that the item be reconsidered at that meeting.
3. During the period of fourteen calendar days following action taken pursuant to Paragraph (1) or (2) above to deny an application, any member of the City Council who voted with the majority regarding the application may file with the City Clerk a written request for the item to be rescinded and reconsidered. If such a request is made (and subject to the provisions of Paragraph (4) below), an appropriate item to rescind the previous vote shall be put on the next available Council agenda, and a follow-up item to reconsider the vote may be put on that same agenda or the next available agenda.
4. No agenda item to rescind or to reconsider an item under this Subsection (J) shall be considered unless:
  - a. Consideration of the item is in compliance with the requirements of NRS Chapter 241; and
  - b. Notice of consideration of the item has been provided to property owners (and published) to the same extent as when the item was heard previously.
5. The provisions of this Subsection (J) shall apply notwithstanding any other provision of this Chapter, and notwithstanding any custom or procedural rule that governs or has governed action by the City Council.

#### K. Voluntary Expungement of an Approved Land Use

1. Except as allowed under LVMC 19.16.100(K) for concurrent temporary development, this Title does not authorize any parcel of land to be approved for more than one comprehensive development at the same time. This limitation may give rise to requests by property owners to voluntarily expunge their land use approvals.
2. Land use approvals of the following kinds may be voluntarily expunged to allow for additional future development:
  - a. A land use that is approved with a specified expiration period may be voluntarily expunged prior to exercising the entitlement.
  - b. A land use may be voluntarily expunged as part of a new request that would replace the existing entitlement.
  - c. A land use that has been exercised, but may expire in the future, may be voluntarily expunged if it is not currently used and will not be used in the future.
  - d. A nonconforming land use may be expunged if it is not currently used and will not be used in the future.
3. Request for Expungement
  - a. A written request for voluntary expungement may be included within or as part of the submittal of a new land use application, or may be submitted to the Director separately. The request shall include:

i. The reason for expungement; and

ii. A statement acknowledging that the applicant is willingly surrendering all rights to the subject land use, including but not limited to any time otherwise allotted in this title to re-establish the use due to discontinuation or abandonment.

b. The written request shall be accompanied by an application signed by the property owner or, in the case of a land use approval concerning multiple parcels, a separate application signed by a property owner for each individual property. In the case of multiple ownership of a single parcel, only one of the owners of record shall be required to sign the request. A list of all other owners shall be provided with the application. The application shall be notarized prior to submittal.

#### 4. Granting of Expungement

a. The Director shall consider the request and, if the Director approves the request, shall provide a letter acknowledging the expungement and noting the effective date.

b. If the request is part of a new land use application submittal, the existing land use(s) may be expunged by a condition of approval that is effective on the date of final action approval for the new application.

*(Ord. 6617 §2 - 3, 05/16/18)*

*(Ord. 6650 §2 - 3, 11/07/18)*

*(Ord. 6722 §2 - 3, 01/15/20)*

*(Ord. 6778 §2, 05/05/21)*

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From: Seth Davis



**Attachment 5:  
“Architectural Standards and Guidelines for  
Harbor Cove Homeowners Association”**

**ARCHITECTURAL STANDARDS**  
**and**  
**GUIDELINES**  
**For**  
**HARBOR COVE HOMEOWNERS ASSOCIATION**  
  
**ORIGINALLY ADOPTED JULY 1, 1995**  
  
**REVISED AUGUST 8, 2002**

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Revised 08/07/02

**ARCHITECTURAL STANDARDS and GUIDELINES**  
**For**  
**HARBOR COVE HOMEOWNERS' ASSOCIATION**

**INTRODUCTION**

These guidelines are intended as a supplement to Section 8.2 of the Covenants, Conditions and Restrictions (CC&RS) of Harbor Cove Homeowners Association. They do not cover the entirety of the legal documents.

**IT IS TO YOUR ADVANTAGE TO READ THE CC&RS THOROUGHLY!**

The Architectural Review Committee (ARC), made up of Harbor Cove Association homeowner volunteers, does not seek to restrict individual creativity or personal preference, but rather to assure continuity in design which will preserve and improve the appearance of our community and the property values therein and conform to the requirements of the Master Association.

The Committee reviews all plans for exterior improvement and additions to residential lots and dwellings in Harbor Cove. These improvements include without limitation, additions, modifications and alterations to dwellings such as fences, walls, room additions, patio covers, gazebos, pools and spas and pouring of concrete; planting of trees as well as certain other landscaping, including all lakefront landscaping.

Failure to submit plans to the Committee prior to start of construction or complete plans according to approval is a violation and may subject homeowner to additional fees or a minimum special assessment of \$40.00 which may be progressive.

The Committee meets twice a month. Submittals are due in the Harbor Cove business management office prior to the second and fourth Wednesday of the Month.

Submittal forms are included in your ARC guidelines package along with a checklist designed to guide you through the process. Additional information may be given by a member of ARC, a Board member or the management office.

Upon completion of the work, a representative of the ARC will inspect improvements for adherence to approved plans and will sign completion receipt.

The ARC members will be happy to assist you with the submittal process and understanding of the CC&RS and these guidelines.

**THANK YOU IN ADVANCE FOR YOUR COOPERATION AND FOR HELPING TO MAINTAIN OUR COMMUNITY IN THE BEST CONDITION POSSIBLE!**

**GENERAL CONDITIONS**

1. **CONDITIONS NOT DEFINED:** Any condition or material not defined within these guidelines shall become a matter for the consideration and determination of the Committee. (see section 8.02)

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2. Committee approval of plans does not constitute acceptance of any technical or engineering specifications of requirements of the City of Las Vegas, Harbor Cove and Desert Shores and assumes no responsibility for such. The function of the Committee is to review submittals for conformity to the Master Plan for the community. All technical and engineering matters as well as applicable permits are the responsibility of the owner.

**APPROVALS OR VARIANCES GRANTED BY THE CITY OF LAS VEGAS DO NOT SUPERCEDE THE CC&RS OR THESE GUIDELINES.**

3. Approval of plans is not authorization to proceed with improvements on any property other than the applicant's.

4. An oversight by the Committee regarding the CC&Rs or Policies and Guidelines does not constitute a waiver; therefore any violation must be corrected upon notice.

5. Access for equipment used in construction must be through owner's property. **NO ACCESS THROUGH HARBOR COVE OR DESERT SHORES COMMUNITY ASSOCIATION PROPERTY WILL BE ALLOWED.** Building equipment and materials must be contained on the applicant's property. Streets may not be obstructed with equipment or building materials.

6. When construction requires use of adjoining property the applicant must obtain written permission from the adjoining property owner and submit it with the plan submittal.

7. All work must be performed in a manner consistent with the standards of the general dwelling construction and appearance of the community. All work considered to be of an unsightly finished nature or of lesser quality than the prevailing community standards shall be reworked to an acceptable appearance at the owner's expense.

8. No change in color from the original colors of the exterior of any dwelling or fencing will be permitted. Exteriors are painted in CIELO BLANCO.

9. **NEIGHBOR NOTIFICATION:** The required Neighbor Advisory (Exhibit B Page 2) is intended as input from neighbors regarding any improvements which may impact their use and enjoyment of their property. It is intended for advisory use only.

10. Approval expires 6 months from the date of final approval. Any revisions must be resubmitted through regular channels.

11. When a contractor is hired by a homeowner or property owner for a construction project, i.e. pool installation, block wall, landscaping, patio or concrete slab, the homeowner may be the generator of the waste resulting from the construction project and may share responsibility for the legal disposal thereof. A prudent property owner will request that a waste management clause be included in the contract and require disposal receipts for permanent record which identify the actual disposal site.

12. **INSURANCE:** Homeowner must provide to the ARC certificates of liability insurance from any and all contractors naming both the homeowner and Harbor Cove Association as additional

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insureds in an amount no less than \$300,000. The ARC may request additional coverage for specific projects.

### ARCHITECTURAL AND MATERIAL STANDARDS

This section of the Guidelines delineates appropriate materials for us in modifications and specifics which modifications require prior submittal to the Committee. Any deviation from pre-approved items requires Committee approval or a variance from the Board of Directors.

#### I. LANDSCAPING

A. All landscaping work, plantings and installation of permanent irrigation systems by an owner in both front and rear yards shall remain aesthetically consistent with the design and plan of the community. No more than 25% of front yards (excluding original driveways and walks) may have material other than grass. (NO DESERT LANDSCAPING IS ALLOWED IN HARBOR COVE.) Any change to landscaping (front and rear) that deviates from the original installation must be approved by the ARC. If plantings are found to be detrimental to the community by the Board, homeowners may be required to abate the problem. The infringement of plants or trees on another homeowners property or common area could be found to be detrimental.

B. No owner shall further landscape or otherwise improve any property owned and maintained by the Harbor Cove or Desert Shores Community Associations.

C. Lakefront properties, due to their special location, require the approval of both Desert Shores and Harbor Cove prior to any landscaping changes.

D. Landscape mounds under four feet, decorative wood stumps no larger than twelve inches in height and boulders no larger than two feet in diameter are permitted without prior approval. Non-colored decorative curbing of concrete, plastic or wood must extend no more than six inches above the sod and does not need approval. Retaining and planter walls under two feet do not need approval. The only approved material for retaining and planter walls of any height is stucco conforming in texture and color to the existing walls.

E. The use of decorative rock and gravel is not permitted in front yard planter areas without plants and cannot exceed 25% of landscaped area. Architectural review is not required if any of the following approved rock colors are used: California Gold, Beige Blue Jay, Desert Rose, Calico Tan, Peach, Red, Brown Cinder Mix, Vergo Red Cinder, Arizona River Pebble, Calico White and White.

F. No plastic, silk or any other type of artificial plant/flower materials are permitted. Prohibited plants are: mulberry trees, poplar trees, cottonwood trees, oleander bushes, weeping willow trees (except Desert Willow) and olive trees (except olive swan tree).

#### II. BLOCK WALLS, FENCES AND GATES

A. All block wall and fence construction, extensions and stuccoing require prior submittal and approval.

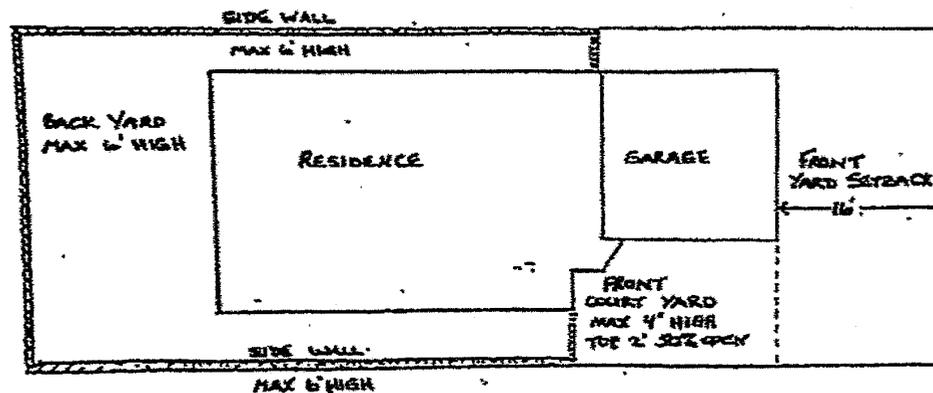
B. No double property line block walls or fences shall be constructed. Should a block wall or fence be installed by a neighbor adjacent to the property line, said wall or fence shall be the only wall or fence.

C. Acceptable materials for construction, extension or repair of block walls and fencing shall be:

1. accent banding of tile

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2. stucco walls with wrought iron grilles between pilasters
  3. stucco or plaster materials must conform to the type, quality and color consistent with the character of the community.
  4. heavy texture, swirl or heavy trowel are unacceptable
  5. stucco must be water sealed and maintained to the satisfaction of the association.
  6. all block walls must be water sealed below grade level.
- D. Block walls can be a maximum of six feet high from the grade pad (level of the lot) for side and rear yards.
- E. A six foot block wall may not extend beyond the living quarters of the house.
- F. A maximum of four feet high will be allowed in the front courtyard. The top two feet must be 50% open masonry block or wrought iron. The front courtyard is the distance from the living quarters to the front of the garage. Courtyard walls cannot encroach on the front yard setback. The front yard setback is sixteen feet from the structure to the front property line (see diagram below).



Installation of wrought iron gates and gate screening do not require submittal if they meet the following specifications: all gates must be wrought iron matching Desert Shores square tubular type structure with spacing per City code and without sharp spikes. Gates may not exceed height of the fence. Color must be white to match original gate color. Decorative arches, double gates and security bars are not permitted. Gate screening can be perforated metal and all gate screening must be painted to match the gate color.

### III. PATIO SLABS, WALKWAYS AND CONCRETE

- A. COMMITTEE REVIEW AND APPROVALS REQUIRED PRIOR TO POURING ANY CONCRETE (FRONT OR REAR).
- B. Driveway extensions require prior approval. They shall be allowed on the condition that in front yards a minimum 18 inch strip of landscaping be parallel and contiguous to the property line and that drainage is not hampered.

### IV. SETBACK REQUIREMENTS

- A. Home improvements, i.e. patio covers attached to the existing house:
  1. Ten feet from the posts to the rear property line

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2. Five feet from the posts to the side property line
3. A maximum overhang of 18 inches will be allowed to encroach into these setbacks.
4. Submittals for less than the ten foot minimum rear setback will be considered with the following requirements:
  - a. An absolute minimum setback of five feet from the rear property line including any overhang
  - b. Compliance with all other architectural guidelines
  - c. Architectural committee approval prior to construction
  - d. Proof of City of Las Vegas Building Permit including any applicable variance to City setbacks
  - e. Verification of impacted neighbor notification.
5. Setback requirements are five feet rear and five feet side between two separate structures and sixteen feet from structure to front property line.
  - B. Gazebos and free standing accessory structures, i.e. portable spas, storage sheds, etc.:
    1. Are subject to Harbor Cove, Desert Shores and City of Las Vegas approval
    2. Setback requirements:
      - a. Five feet from both side and rear property lines
      - b. Six feet from the existing house/structure (attached patio cover is considered part of the house.).
  - C. Inground pools/spas are subject to Harbor Cove, Desert Shores and City of Las Vegas approvals.

#### V. PATIO COVERS

- A. Complete Patio Cover Checklist must accompany all submittals.
- B. Vertical patio cover structure must be made of:
  1. Natural wood which must be stained and water sealed to provide for proper maintenance or painted to match residence
  2. Stucco painted to match residence
  3. Grained, embossed aluminum product painted to match residence
- C. Acceptable roofing materials are:
  1. Open parallel slats. Minimum slat size is 2" x 2"
  2. White or red rolled roofing with file border on all exposed sides
  3. Fiberfelt with tile border on all exposed sides
  4. Match the roof of the existing dwelling
- D. Exposed surfaces shall match existing colors and materials on house.
- E. Exposed gutters and downspouts shall be painted to match adjacent roof and/or wall material.
- F. Thin posts, such as 4" x 4" wood or metal pipe supports are prohibited. Minimum size for wood or stucco posts is 6" x 6". Lake front post size minimum is 8" x 8".
- G. Unacceptable construction materials for patio structures are:
  1. Exposed metal structures
  2. Corrugated plastic and fiberglass
  3. Plastic webbing, shade cloth, canvas, reeded or strawlike materials
  4. Composition shingles
  5. Prefabricated wood lattice

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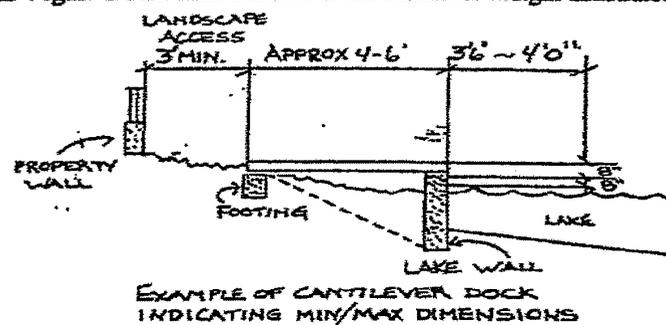
**VI. ALL BALCONIES AND DECKS are subject to Harbor Cove, Desert Shores, and City of Las Vegas approvals.**

**VII. INGROUND POOLS, SPAS, AND RELATED EQUIPMENT**

- A. Submittal of complete construction plans showing placement of pool and equipment on property is required. Each will be considered on an individual basis.
- B. All equipment must be screened.
- C. Meet setback requirements per Section IV, Item C.

**VIII. OTHER STRUCTURES**

- A. Garage conversions will not be permitted. The purpose of garages is to store vehicles and belongings. Garages may not be converted into living or commercial space or incur any structural change.
- B. Room additions, eaves and balconies or any exterior alterations to any building are major construction items which require prior approval of the ARC. They shall be constructed with materials that conform to type, quality, character and detailing established in the existing dwelling. Any addition to the existing dwelling must meet the minimum setback requirements outlined in Section IV, A.
- C. Storage sheds and utility buildings require prior approval. They must be placed on the property so as not to be visible from the street, lakes or community property of either Harbor Cove or Desert Shores. Permanent accessory structures built identical to the existing dwelling in material and finish can be visible to the street as long as they receive prior approval and meet the minimum setback requirements outlined in Section IV, B.
- D. Pet shelters must be placed on the property so as not to be visible from the street, lakes or community property of either Harbor Cove or Desert Shores and do not require prior approval.
- E. DOCKS constructed by the homeowner must be approved by Harbor Cove, Desert Shores and the City of Las Vegas. Docks must conform to the cantilever designs illustrated below.



Docks are intended for the use of the individual homeowner only. All docks require a City of Las Vegas permit and licensed structural engineer sign off prior to submittal. Care must be taken during construction so as to not penetrate the impermeable barrier sealing the lake when digging footings or constructing the dock. Sketches of this seal can be obtained from the DSCA Architectural office. Natural wood may be used if stained and water sealed to provide for proper maintenance. Stain and other natural finishes will be considered. Care must be taken to avoid DSCA irrigation system during construction. Any adjustment to sprinklers or moving of heads must be done by DSCA at the expense of the homeowner. Any damage must be reported to DSCA office. A space of 3 feet must be left

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between the dock and the homeowner wall to allow room for landscaper personnel to maintain the greenbelt. The sprinkler heads in that area may be adjusted to cover the grass but not to water the dock. The lake seal is of clay material. It is important to insure boat hulls or rudders do not penetrate through the seal. Docks must be cantilevered due to variances in lake depth along the shoreline to avoid penetration. The minimum cantilever should be 3 and 1/4 feet with a maximum of 4 feet over the lake.

1. Modifications to docks must be approved by Harbor Cove, Desert Shores and the City of Las Vegas.

#### IX. ADDITIONAL MODIFICATIONS

A. Window tinting will not require prior approval of the ARC. Mirror finishes are not permitted.

B. Screen door installations on front doors require prior approval. Security bar doors are not permitted. Any other door cover requires approval of the ARC.

C. Solar screen installations will not require prior approval of the ARC if one of the following colors is used: Silver Gray, Dark Bronze, Charcoal, Bronze, Gold, or Antique White.

D. Lighting

1. Exterior lamps may be gas or electric with light given off not to exceed that given off by a 40 watt bulb and not to be an annoyance to the neighbors as determined by the ARC. Maximum height of light poles is twelve feet.

2. Motion sensor security lights illuminating the common area behind lakefront homes require ARC approval.

3. Christmas lighting in season is permitted without ARC approval, but must be removed no later than January 30<sup>th</sup>.

4. Decorative white/clear lights (no colored lights) are permitted on lakefront rear yards year round.

5. Replacement exterior light fixtures finished white, brass or Verde Gris comparable to original fixtures are permitted without approval. Any other color or style require approval prior to installation.

E. Playground equipment, i.e. manufactured swingsets and jungle gyms which cannot be seen above any surrounding fence do not require approval. Any swingset or jungle gym that can be seen above any surrounding fence requires ARC approval.

F. All other types of play equipment, i.e. playhouses, climbing structures, etc. need prior approval from the ARC. Specific attention will be given to location and impacted neighbor notification. Play equipment may only be installed at a minimum of five feet from any property wall.

G. Basketball backboards require prior approval from the ARC. They cannot be affixed to any structure. They may be mounted on a free standing pole which can be movable. Permanent poles are to be installed in the side and rear yards only. They may not be installed in the front yard. All portable basketball backboards must be removed and stored out of sight from any common area or neighboring lot view when not in use.

H. Skylights must have prior approval from the ARC prior to installation.

I. Solar energy equipment requires approval from the ARC prior to installation. Systems must match roof and house colors and must be installed in the least visible area of the house where it will work efficiently.

J. Identification signs, i.e. name signs ("THE SMITHS") require prior approval from the ARC and have the following limitations:

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1. Maximum size – 30" long and 8" high.
  2. Color – considered individually upon submittal
  3. Must be professionally made
  4. Must be attached to house or fence
- K. House numbers/signs other than those originally installed (lighted white plastic and brass numbers) cannot be larger than 18" long and 8" high and require approval from ARC prior to installation.
- L. Awnings, canvas covered frames or similar structures that shelter a window require approval from the ARC prior to installation. They must be properly maintained to the satisfaction of the ARC and may not be kept when frayed, split, torn or faded. Awnings must be attached to the structure with no outside ground supports.
- M. Air conditioners are prohibited from any rooftop. Any exterior air conditioner, other than those installed by the builder, must be submitted to the ARC for approval prior to installation.
- N. Recreational vehicles and boats are not permitted to be parked on streets for longer than 24 hours.
- O. No temporary window coverings or foil is allowed in any window.

**FAILURE TO COMPLY WITH THE ABOVE GUIDELINES COULD RESULT IN FINES BEING IMPOSED ON HOMEOWNER. THE BOARD HAS THE RIGHT TO REQUIRE THAT ANY INSTALLATION MADE WITHOUT PRIOR APPROVAL BE REMOVED/ CORRECTED REGARDLESS OF COST TO HOMEOWNER.**

#### **ARCHITECTURAL SUBMITTAL CHECKLIST**

Below is a listing of items that are required to accompany the Architectural Submittal application prior to review by the Architectural Review Committee:

1. Application (See ARC Submittal section)
  - A. Three (3) copies of the ARC Submittal package for Harbor Cove, plans, material list and samples.
  - B. Approximate start and completion dates.
  - C. Project being submitted.
  - D. Architectural Submittal package should be submitted directly to Harbor Cove Homeowners Association. Desert Shores submittal will be accomplished only by Harbor Cove Homeowners Association after Harbor Cove review and approval.
2. Contractors' certificates of insurance owners' proof of liability insurance.
3. Signed NEIGHBOR ADVISORY STATEMENT. The required Neighbor Advisory is intended as input from neighbors regarding any improvement which may impact their use and enjoyment of their property.
4. Neighbor approval or disapproval of a particular improvement shall only be advisory and shall not be binding in any way on the Committee's decision.
  - A. Adjacent Neighbor: Means all homes with adjoining property lines to the home in question.

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- B. Rear Neighbor: Means all homes with rear adjoining property lines to the home in question.
- C. Facing Neighbor: Means the three (3) homes most directly across the street.

5. The homeowner applicant will complete the Neighbor Advisory Statement prior to the submission of plans.

- A. Any exterior improvements that may impact the neighbors in the community requires all signatures noted on the Neighbor Advisory Statement.
- B. Fences and walls require Adjacent and Facing Neighbor signatures.
- C. Patio Covers and Gazebos require Adjacent and Rear Neighbor signatures and Patio Cover Checklist.
- D. Dog Runs require Adjacent Neighbor signatures.

6. Neighbor Advisory Statement must be provided to the ARC to verify the neighbors have been notified about the proposed improvements.

7. PLANS SHOWING THE WORK TO BE DONE

- A. Detailed drawings showing the height, length, width, color and what the improvement will look like when it is completed
- B. Complete site plan showing property walls, fences, diagram of house, location of improvement and setbacks.
- C. Patio cover checklist if pertinent.

8. LANDSCAPE PLANS

- A. Site plan showing property walls, fences, diagram of house, location of landscaping improvements and setbacks
- B. Plant list

9. MATERIAL SAMPLES

- A. Example—Type of rock to be used, color chip of paint, pictures of gazebo, pools, patio cover and spa should accompany the plans for same. A DETAILED DRAWING OR PICTURE MUST BE SUBMITTED.

10. Failure to comply with these requirements and procedures may cause your request to be delayed pending submission of additional information and documentation to the ARC. An incomplete application may affect the time limits for approval.

11. Failure to submit plans prior to start of construction may subject homeowner to additional fees or special assessments: \$40.00 minimum and may be progressive. Additional fines may be imposed by Desert Shores as well.

12. If proposed improvements require access over the common areas or community areas or community facilities for the purpose of transporting labor and/or materials, written permission shall be required from Harbor Cove and/or Desert Shores wherever it applies.

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13. As deemed necessary by the ARC, a bond or other sufficient security may be required to ensure that:
  - A. Improvement is completed or that the funds exist to complete the approved plans if left undone and deemed a nuisance.
  - B. Protect both Harbor Cove and Desert Shores against mechanic liens.
14. Any other information or documentation deemed to be necessary by the ARC in evaluating your request.

**Attachment 6:  
“Desert Shores Community Association  
Architectural Policies and Guidelines”**

**DESERT SHORES COMMUNITY ASSOCIATION  
ARCHITECTURAL POLICIES AND GUIDELINES**

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**DESERT SHORES  
ARCHITECTURAL POLICIES & GUIDELINES**

**INTRODUCTION**

These guidelines are intended as a supplement to Article IX of the Master Declaration of Covenants, Conditions and Restrictions (CC&R's) of the Desert Shores Community Association. They do not cover the entirety of the legal documents.

**IT IS TO YOUR ADVANTAGE TO READ THE CC&R'S THOROUGHLY**

The Architectural Review ARC ("ARC"), made up of Desert Shores Community Association homeowner volunteers, does not seek to restrict individual creativity or personal preferences, but rather to assure continuity in design which will preserve and improve the appearance of our Community and the property values therein.

The ARC meets as required and reviews all plans for exterior improvements and additions to residential lots and dwellings in Desert Shores. These improvements include without limitation, additions, modifications and alterations to residential dwellings such as fences, walls, room additions, patio covers, gazebos, pools and spas and pouring of all concrete; planting of trees as well as certain other landscaping, including all lakefront landscaping.

Failure to submit plans to the ARC prior to start of construction or complete plans according to approval is a violation and may subject homeowner to additional fees or a minimum special assessment of \$40 which may be progressive. (Refer to CC&R's, Article IX, Section 9.07 and By-laws, Article XII "Notice and Hearing Procedure".)

**\*\*\*IN REGARDS TO BUILDING PERMITS, CITY REQUIREMENTS SUPERCEDE  
DSCA RULES AND REGULATIONS\*\*\***

**\*\*\*THANK YOU IN ADVANCE FOR YOUR COOPERATION\*\*\***

### **GENERAL CONDITIONS**

1. **ANY CONDITION OR MATERIAL NOT DEFINED** within these Guidelines shall become a matter for the consideration and determination of the ARC. (Section 9.03 CC&Rs).
2. **ARC APPROVAL OF PLANS** does not constitute acceptance of any technical or engineering specifications, or requirements of the City of Las Vegas, and Desert Shores assumes no responsibility for such. The function of the ARC is to review submittals for conformity to the Master Plan for the community. All technical and engineering matters as well as applicable permits are the responsibility of the owner. **APPROVALS OR VARIANCES GRANTED BY THE CITY OF LAS VEGAS ONLY SUPERSEDE THE CC&R'S OR THESE GUIDELINES IN REGARDS TO THE EXTENT OF REQUIRING PERMITS.** Desert Shores Community Association must receive copies of building plans, pool plans, engineering plans (if required) and City approved permits/variances prior to any/all construction.
3. **APPROVAL OF PLANS** is not authorization to proceed with improvements on any property other than the applicant's.
4. **AN OVERSIGHT BY THE ARC** regarding the CC&R's or Policies & Guidelines does not constitute a waiver or variance; therefore any violation must be corrected upon notice.
5. **ACCESS FOR EQUIPMENT** used in construction must be through your property. **NO ACCESS THROUGH DESERT SHORES COMMUNITY ASSOCIATION PROPERTY WILL BE ALLOWED.** Building equipment and materials must be contained on the applicant's property. Streets may not be obstructed with equipment or building materials. Contractor signs may not be displayed on your property.
6. **USE OF ADJOINING PROPERTY** may be allowed if written permission from the adjoining property owner is obtained.
7. **ALL WORK MUST BE** performed in a manner consistent with the standards of the general dwelling construction and appearance of the community. All work considered to be of an unsightly finished nature or of lesser quality than the prevailing community standards shall be reworked to an acceptable appearance at the owner's expense.
8. **ALL REPAINTING OF BODY/STUCCO AND TRIM COLORS** must be pre-approved. The approved Color Palette is available in the DSCA office.
9. **NEIGHBOR NOTIFICATION:** Approval or denial is granted solely by the ARC. The required DSCA Neighbor Advisory form is intended as a courtesy notification and to allow opportunity for input from neighbors regarding any improvements which may impact their use and enjoyment of their property. It is intended for informational use only.
10. **DSCA ARC APPROVAL EXPIRES 6 months** from the date of Original approval. Any revisions/alterations must be resubmitted for approval along with appropriate fees.

### **DIRECTIONS FOR ARCHITECTURAL SUBMITTAL**

Below is a listing of items that are required to accompany the application prior to review by the Architectural Review ARC.

1. **APPLICATION** (Will be returned un-approved if submitted without the following)
  - a) Completed application form.
  - b) Approximate start and completion dates.
  - c) Projects being submitted.
  - d) Approval from sub association (if there is one).
  - e) \$10.50 submittal fee in the form of a credit/debit card or if paying by check or money order \$10.00.
2. **NEIGHBOR IMPACT ADVISORY** is required and is intended as a courtesy notification and to allow input from neighbors regarding any improvements which may impact their use and enjoyment of their property. It is intended as advisory use only.
3. **PLANS**
  - a) Detailed drawings showing the height, length, width, color, and what the improvement will look like when it is completed or manufacturer's brochure, or flyer or picture.
  - b) Complete site plan showing property walls, fences, diagram of house, location of improvement and setbacks.
  - c) Patio Cover checklist if pertinent.
  - d) Landscape Plans if pertinent. Site plan showing measurements of areas being converted, property walls, fences, diagram of house, location of landscaping improvements, existing foliage, plant list and setbacks.
  - e) Construction Plans if pertinent.
4. **MATERIAL SAMPLES**

(Example: Color name and size of rock to be used, color chip of paint, pictures of gazebo, pools, patio cover and spa should accompany the plans for the same) A detailed drawing or picture must be submitted.
5. **FAILURE TO COMPLY** with these requirements and procedures may cause your request to be delayed pending submission of additional information and documentation to the ARC. An incomplete application may affect the time limits for approval.
6. **FAILURE TO SUBMIT** plans prior to start of construction may subject the homeowner to additional fees or special assessments.

## ARCHITECTURAL AND MATERIAL STANDARDS

This section describes appropriate materials for use in modifications and specifies which modifications require submittal to the ARC. Any deviation from pre-approved items requires ARC approval.

### I. **LANDSCAPING (Refer to Section 8.03 of the CC&Rs)**

A. **ALL LANDSCAPING WORK** (front, side and back yards), PLANTINGS AND INSTALLATION of permanent irrigation systems by an owner shall remain aesthetically consistent with the design and plan of the community and climatically and culturally appropriate to Southern Nevada. Install and maintain landscaping in conformance with the Rules and Regulations and shall not allow his landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition. If plantings are found detrimental to the community by the Board, homeowners may be required to abate the problem.

1. **The following plants are prohibited:**

Mulberry, Cottonwood and Poplar Trees  
 Oleander Bushes & Trees (except Dwarf Oleander which is acceptable)  
 Weeping Willow Trees (except the Desert Willow which is acceptable)  
 Olive Trees (except the Olive Swan and Wilson Olive Trees which are acceptable)

2. **Xeriscape** – grass/turf alternative which features drought tolerant plants and water conservation. Please note that Xeriscape does not mean “zero” scape.

### B. **FRONT YARD LANDSCAPING**

1. When changing out existing landscaping to Xeriscape, the following rule should apply:

- a) Every 25 sq ft (5'x5') of Xeriscaped area should be comprised of either one five (5) gallon or two one (1) gallon shrubs or plants that provide ground coverage.
- b) Adding, removing or replacing trees requires ARC approval.
- c) All trees must be planted a minimum of 3' from any wall or structure.
- d) With Xeriscape, if a plant or shrubs dies, it MUST be replaced with a non-prohibited plant, but does not need ARC approval.

2. **ALL DECORATIVE ROCK** must be of natural (unaltered colors and approved by the ARC. Rock colors NOT permitted include: (This list is not all inclusive.) (Revised 3/23/2011)

|                 |             |                              |
|-----------------|-------------|------------------------------|
| White           | Green       | Black                        |
| Black and White | Gray Gravel | Artificially Painted Rock(s) |
| Caliche         |             |                              |

**All rock must be at least ¾ inch or larger in size.**

3. **No bare ground/dirt allowed.**

- a) Mulch or wood chips may only be used in contained planter areas around trees and must be maintained in good condition. Mulch may not be used as a yard border, perimeter or as all over ground cover.
- b) No rubber mulch.
- c) Decomposed granite (DG) may only be used as a pathway and must be contained with curbing, edging or other approved border. Must be an earth tone color.

4. **ARTIFICIAL TURF** requires ARC approval.
  - a) The height of the artificial turf should be no less than 1 ½ inches.
  - b) The homeowner accepts responsibility for maintaining the appearance of the artificial turf free of weeds, debris, discolorations, stains, tears and odors.
5. **LANDSCAPE LIGHTING** requires ARC approval. (See X.)
6. **EXTERIOR HARDSCAPE, DECORATIONS, YARD ORNAMENTS, OUTDOOR FURNITURE, WATER AND ROCK FEATURES.** (Approved by Board of Directors July 25, 2012)
  - a) Artificial plants, flowers and trees are considered hardscape materials and are prohibited in front yards, side yards and in front of return walls, and where visible from the street or neighboring lots.
  - b) **Front and Side Yard and Wall Ornaments, Statuary Objects and Water Features:** Require ARC approval and are limited to two (2) ornamental objects, in total, in front of return walls, and where visible from the street or neighboring lots. Said objects or features shall be maintained in like-new and operational condition at all times, or the ARC reserves the right to require removal.
    - i) Front and side yard lawn ornamental objects (i.e. name plates, bull's horns, etc.) shall be limited to two (2) in total and may be a reasonable size of no larger than one foot in height and shall be maintained in like-new condition at all times.
    - ii) Ornamental flags are permitted to one (1), no larger than 2' x 3'.
    - iii) The placement of front and side yard ornamental objects described in F. 1. and F. 2. may be reviewed on a case by case basis. The Committee will consider the proposed location of such objects relevant to their visibility from neighboring lots, common areas, and public or private sidewalks or streets. In general, those external ornamental objects that present a mirror-like or reflective surface are not permitted in the front or side yards where visible from the street.
    - iv) **Wall Ornaments**, including but not limited to wood or ironwork decorations, hanging pots, decorative flags, and wall fountains, that are attached to the exterior of the residence or on the gates, and visible from the street or neighboring lots. Wall ornaments are limited to two (2) in total for the front and sides of the residence, and limited to two (2) for the rear yard that are visible from the street or neighboring lots and not larger than 2' x 2'. Sizes greater than 2' x 2' may be considered by the ARC on a case by case basis.
    - v) **Statuary objects or water features** are limited to one (1) in total in the front or side yards. Any statuary object or water feature forward of the respective building setback may not exceed four (4) feet in height. Decorative objects on top of the walls are not permitted.
    - vi) **Permanent in-ground water features** will be considered on a case by case basis.
  - c) **Natural and artificial rock features**, including but not limited to raised waterfall features, which are higher than any property line wall, or located along an open view fence, require ARC approval, must be set back a minimum of five (5) feet from all property line walls and must be screened with non-deciduous landscaping. Such features are limited to the maximum height of eight (8) feet. Said features shall be maintained in like-new and operations condition at all times, or the ARC reserves the right to require removal.
  - d) **Outdoor Furniture** (i.e. benches, chairs, bistro and small tables, etc.) are permitted on a case by case basis and are subject to ARC approval. Said outdoor furniture shall be maintained in like-new condition at all times, or the ARC reserves the right to

require removal. Indoor furniture is not allowed in the front of the home (i.e. recliners, sofas, office chairs, bookcases, etc.)

**C. BACK YARD LANDSCAPING**

1. All Back Yard Landscaping changes must be approved by the ARC.
2. Non-Lakefront Properties Back Yard Landscaping follows front Yard Landscaping guidelines except for the following:
  - a) All Back Yard Landscaping must be finished and is NOT allowed to be dirt, bare rocks or dead grass and dead foliage.
  - b) Must have at least 25% plant coverage.
  - c) Rock size can be smaller than ¼".
  - d) Decomposed Granite is allowed in non-lakefront properties.

D. LAKEFRONT PROPERTIES, due to their special location, Back Yard must meet Front Yard Landscaping Guidelines. Each Owner shall be responsible for periodic trimming, pruning and thinning of all hedges, shrubs and trees located on their Lot, so as not to unreasonably obstruct the view of Adjacent Owners.

E. DSCA COMMON AREA may not be maintained, landscaped or otherwise improved by any Owner.

**II. BLOCK WALLS, FENCING AND GATES**

- A. ALL BLOCK WALL AND FENCE CONSTRUCTION, extensions and stuccoing require prior submittal and approval of the ARC.
- B. ONE TYPE OF BLOCK WALL OR FENCE will be approved for the entire district if the Participating Builder did not provide block walls or fencing.
- C. NO DOUBLE PROPERTY LINE block walls or fences shall be constructed. Should a block wall or fence be installed by a neighbor adjacent to the property line, said wall or fence shall be the only wall or fence.
- D. FENCE ROLLERS (also known as wildlife rollers) are not allowed on top of any private, shared or common walls, fences and/or gates within any Desert Shores gated or un-gated community. (Added 5/27/2015)
- E. INSTALLATION OF WROUGHT IRON GATES does not require approval if they meet the following specifications:
  1. Gates must be wrought iron, matching the Desert Shores square tubular type structure with spacing per City code and without sharp spikes.
  2. Gates may not exceed the height of the wall.
  3. Colors can be white, black, or match the residence colors.
  4. Decorative arches, double gates and security bars require ARC approval.
- F. GATE SCREENING must be perforated metal or solid metal. All gate screening must be painted to match the gate color.

**G. MATERIALS FOR BLOCK WALL AND FENCING construction, extension or repair must be:**

1. Accent banding of tile is allowed.
2. Stucco walls with wrought-iron grilles between pilasters.
3. Stucco or plaster materials must conform to type, quality and color consistent with the character of the community.
4. Heavy texture, swirl or heavy trowel are unacceptable.
5. Stucco must be water sealed and maintained to the satisfaction of the Association.
6. All block walls must be water sealed below grade level.
7. Exterior facing block walls within a District must be maintained by the homeowner and painted the approved Desert Shores Exterior Wall Color. (Added 2007)

**H. UNACCEPTABLE MATERIALS FOR FENCING are:**

1. Aluminum or sheet metal
2. Chicken wire
3. Metal or plastic chain link
4. Barbed Wire
5. Plastic or fiberglass panels
6. Plastic webbing, reed or straw like materials
7. Wood grape stake
8. Glass block and panels
9. Woven bender board
10. Wood

I. BLOCK WALLS can be a maximum of 6 feet high from the grade pad (level of lot) for side and rear yards.

J. A 6 FOOT BLOCK WALL may not extend beyond the living quarters of the house.

K. A MAXIMUM OF 4 FEET HIGH will be allowed in the front court yard. The top 2 feet must be 50% open masonry block or wrought iron. The front court yard is the distance from the living quarters to the front of the garage. Court yard wall cannot encroach on the front yard setback past the face of the garage. The front yard setback is 16 feet from the structure to the front property line. Please note, there may be some homes/lots that have an unusual configuration which will be reviewed on a case by case basis. (Revised 5/27/2015)

**III. STONWORK (Added 3/23/2011)**

Natural stone/natural stone veneer may be used as an accent or architectural element on the front façade of the residential structure only and must complement the colors and materials of the home. All stonework requires ARC approval.

- A. The use of natural stone/natural stone veneer on a column, post, pilaster, turret, or structural component is permitted.
- B. Natural stone/natural stone veneer is to be installed per manufacturer's specifications and per all local codes and ordinances. A building permit may be required prior to installation. It is the responsibility of the homeowner to inquire and comply.

- C. Natural stone/natural stone veneer must be installed with a finished top course cap or equal architectural finish and transition to the body of the structure.
- D. When applying natural stone/natural stone veneer along corners, only the manufacturer's corner components may be used. No substitutions shall be allowed to the manufacturer's specifications.
- E. Samples of natural stone/natural stone veneer that are approved for use in Desert Shores are available in the DSCA office.

#### IV. PATIO SLABS, WALKWAYS AND CONCRETE

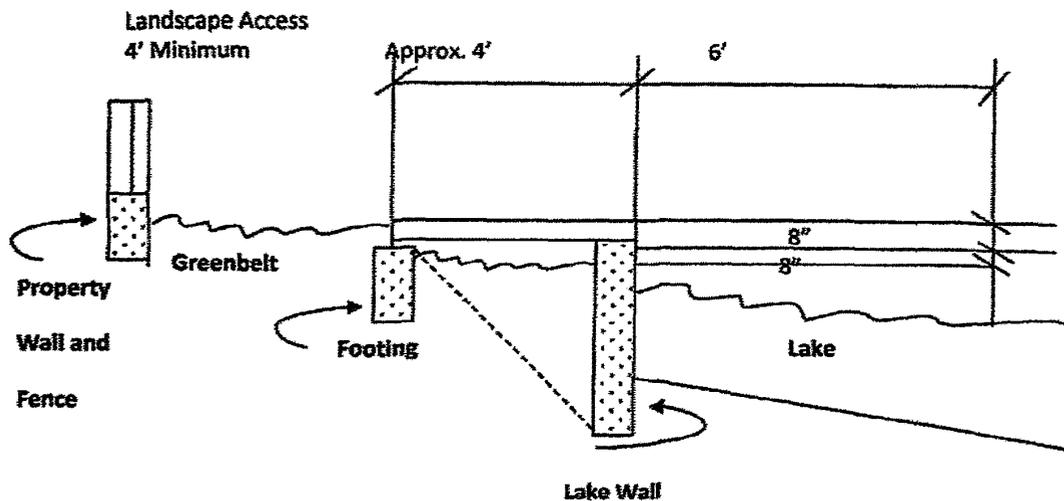
- A. **ARC REVIEW IS REQUIRED PRIOR TO THE POURING OF ANY CONCRETE.**
  - B. **DRIVEWAY EXTENSIONS** require prior approval. They shall be allowed on the condition that in front yards a minimum 18 inch strip of landscaping be parallel and contiguous to the property line and that drainage is not hampered. Excessive concrete (hard scape) is not allowed (i.e. wide extensions on both sides of the driveway).
  - C. Stamped (pattern type) and colored concrete located at the front of a Desert Shores Residence **MUST** have prior approval before installation on driveway and/or sidewalk.
  - D. All driveway and walkway colors shall be natural colors.
  - E. Colors **NOT** permitted include but are not limited to: Black and Red.
- V. **BOAT DOCKS** must be reviewed by the ARC.
- A. Docks must conform to the cantilever design due to variances in lake depth along the shoreline and to avoid penetration of the impermeable barrier that seals the lake or may be floating.
  - B. The minimum cantilever should be 4 feet with a maximum of 6 feet over the lake.
  - C. Docks may be no longer than 25 feet parallel to the lake shore. (Revised 9/25/2013)
  - D. A space of 4 feet must be left between the dock and the homeowner wall to allow room for landscape personnel to maintain the greenbelt.
  - E. A 5 foot setback is required from the side property boundary.
  - F. Natural wood may be used if stained and water sealed to provide for proper maintenance.
  - G. It is recommended to use pressure treated boards for the support beams.
  - H. Care must be taken during construction so as to not penetrate the impermeable barrier sealing the lake when digging footings or constructing the dock. Sketches of this seal can be obtained from the DSCA Architectural office. The lake seal is of clay material and it is important to insure boat hulls or rudders do not penetrate through the seal.
  - I. Docks are intended for the use of the individual homeowner only.
  - J. All docks require a City of Las Vegas permit and licensed structural engineer sign off prior to submittal.
  - K. The irrigation system along the lake edge is the responsibility of DSCA. Do not attempt any adjustments. Call the office at 254-0628 and the DSCA landscaper will work with you or your contractor to adjust the irrigation at your expense. Any damage to the irrigation

system must be reported to DSCA immediately and you may be held responsible for any costs incurred to correct the damage.

- L. All new docks must include a plan for pavers in the area behind the dock up to the wall. Existing dock owners may submit an application to add pavers between their existing dock and the property wall. The allowed paver color is Sierra Blend (available in most nurseries and box stores – see office for sample of color). 8" x 8" pavers or the 12" x 12" pavers may be used. The plan may include a 12" maximum width of pavers along each side of the dock. A polymer filler (no sand) must be used between the pavers. (Revised 2/18/15)
- M. The pavers may not cut into the existing lake liner for any reason.
- N. PRIOR to the start of any new dock construction or addition of pavers between the dock and the wall, an inspection of the irrigation around the dock area is required. Please notify the DSCA office to arrange an appointment with the DSCA irrigation technician.
- O. DSCA landscapers MUST make any and all irrigation changes at the homeowner's expense. (Revised 2/18/15)
- P. If the greenbelt is sloped or you have a small retaining wall along the back of your dock, a drainage pipe will be required to be installed along the top of the dock. (Revised 2/18/15)
- Q. The paver area must be kept clear of any items or debris. (Revised 2/18/15).

DOCKS must be five feet from the side property walls and maintain the four feet required easement between the view wall and the edge of the dock. (See sample drawing below)

Example of Cantilever Dock  
Indicating Min/Max Dimensions



**VI. PATIO COVERS (Attached to the rear of house)**

- A. A COMPLETED PATIO COVER CHECKLIST must accompany all submittals
- B. A VERTICAL PATIO COVER STRUCTURE may be made of:
  - 1. Natural wood which must be stained and water sealed to provide for property maintenance or painted to match the residence or painted white.
  - 2. Stucco painted to match the residence or white.
  - 3. Aluminum must be a highly embossed, wood grained, heavy gauged manufactured product, factory painted to meet DSCA specifications.
- C. ACCEPTABLE ROOFING MATERIALS are:
  - 1. Open parallel slats. Minimum slat size, 2' x 2'.
  - 2. White or red rolled roofing with tile border or stucco border on all exposed sides.
  - 3. Match the roof of existing dwelling.
  - 4. Solid aluminum must be heavy gauged manufactured product painted to meet DSCA specifications and not corrugated or coffered.
- D. ALL EXPOSED SURFACES shall match or harmonize with the existing colors and materials of the main dwelling.
- E. GUTTERS AND DOWNSPOUTS being added to Patio Covers require ARC approval and must match the patio cover.
- F. THIN POSTS such as single 4x4 wood or metal pipe supports are PROHIBITED.
  - 1. Minimum post size for lakefront properties is 8" x 8". Two 4x4s and two 2x8 or one 4x4 and two 2x4s and two 2x8s may be used to meet the 8x8 requirement.
  - 2. Minimum post size for all other properties is 6" x 6". Posts may be made up of a combination of 4x4s with 2x6s and 2x4s.
- G. SETBACK REQUIREMENTS
  - 1. Ten feet from posts to rear property line.
  - 2. Five feet from the posts to the side property line.
  - 3. A maximum overhang of 18 inches will be allowed to encroach into these setbacks.
  - 4. Submittals for less than the ten foot minimum rear setback will be considered with the following requirements:
    - a) An absolute minimum setback of five feet from the rear property line, including any overhang.
    - b) Compliance with all other ARC Guidelines.
    - c) ARC approval prior to construction.
    - d) Must comply with City of Las Vegas setbacks and rules.
    - e) Verification of impacted neighbor notification of variance.
- H. UNACCEPTABLE MATERIALS for patio covers are:
  - 1. Metal structures
  - 2. Corrugated plastic and fiberglass
  - 3. Plastic webbing, shade cloth, canvas reed or straw like materials
  - 4. Composition shingles

5. Prefabricated wood lattice.

- I. PATIO COVERS attached to sides of house will be reviewed on an individual basis and must meet the same guidelines as the rear patio covers.

VII. ALL BALCONIES & DECKS are subject to Desert Shores ARC review.

VIII. INGROUND POOLS, SPAS AND RELATED EQUIPMENT

- A. COMPLETE CONSTRUCTION PLANS showing placement of pool and equipment on property is required. Each will be considered on an individual basis.
- B. ALL EQUIPMENT must be in the rear yard and screened from view and may not be placed to cause noise issues with neighboring homes.
- C. SETBACK REQUIREMENTS ARE 3' from water line to the surrounding structures and walls or per City Code.
- D. No above ground swimming pools are allowed except as provided below. (Revised 3/23/2011)
1. Inflatable pool or any pool of temporary structure will be permitted in the back yard only, from May 1 through September 30.
  2. Inflatable pools must be removed from the back yard and stored from October 1 through April 30.
- E. ABOVE GROUND PORTABLE SPAS WITH OR WITHOUT GAZEBOs must be submitted to the ARC.

IX. OTHER STRUCTURES

- A. TWO CAR GARAGE CONVERSIONS will not be permitted – the purpose of garages is to store vehicles and belongings. Garages may not be converted into living or commercial space or incur any structural changes. Conversion of the third garage is subject to review by the ARC and will only be considered IF the neighborhood/housing development offered a "Living space ILO (in lieu of) 3<sup>rd</sup> stall garage". Third garage conversion applications must include landscaping plans to repair the yard to meet current landscaping requirements.
- B. ROOM ADDITIONS, EAVES AND BALCONIES or any exterior alterations to any building are major construction items which require ARC approval.
1. Shall be constructed with materials that conform to type, quality, character and detailing established in the existing dwelling and neighborhood community.
  2. Any addition to the existing dwelling must meet the minimum setback requirements of ten feet (10') to the rear property line and five feet (5') to the side property line. Any deviation to the rule requires a City of Las Vegas "Variance".
  3. Construction Plans to be included with the application are: Elevation Plans with exterior details to include lighting; Floor Plans with setbacks; Exterior Color Palette; and any Landscape Changes.

**C. ACCESSORY BUILDINGS, FREE STANDING BUILDINGS, GAZEBOS AND PERGOLAS, ETC.**

1. Must be in the rear yard and screened from view.
2. ARC approval must be obtained prior to construction or installation.
3. The design and exterior of the building and/or gazebo must be in harmony with the residence and the surrounding area.
4. Setback requirements are:
  - a) Five feet (5') from both side and rear property lines.
  - b) Six feet from the existing house/structure (attached patio cover is considered part of the house).

**D. FREESTANDING CANVAS CANOPY STRUCTURE, including CANVAS TOPPED GAZEBOS and SAIL SHADES** must be in the rear yard and screened from view. Canvas must be maintained in good condition, support posts or frame shall be bolted or securely fastened with concrete footings and must not be attached to any shared wall or fencing. Three feet (3') minimum setbacks are required to any property wall or residence.**E. STORAGE SHEDS AND UTILITY BUILDINGS:**

1. Are subject to ARC review.
2. Must be in the rear yard only.
3. Must be screened from view with foliage.
4. The design and exterior finish of the storage shed must be in harmony with the residence and the surrounding area.
5. Must meet the minimum setback requirements of five feet (5') to the side walls and five feet (5') to the rear wall.

**F. TEMPORARY STRUCTURES** for holidays are allowed for 30 days prior to the holiday and must be removed within 15 days after the holiday.**X. EXTERIOR LIGHTING**

- A. Exterior lamps may be gas, electric or solar with light given off not to exceed that given off by a total of 450 Lumens (or a single 40 watt bulb) and not be an annoyance to the neighbors, as determined by the ARC.
- B. Higher lumen/wattage lighting may be approved if it is not directed to, or if it is placed so as not to annoy the neighbors as determined by the ARC and with neighbor notification.
- C. **HOLIDAY LIGHTING AND DECORATIONS** may be displayed for 30 days prior to the holiday and must be removed within 15 days following the holiday.
- D. Installation of lighting of the Association Property between the lake and the homeowner's lot is permitted if reviewed and approved by the ARC. The lights must be no more than 450 Lumens total, directed downward and may be placed on the wall/fencing between lot and the Association Property. The lighting must not be offensive or a nuisance to adjacent neighbors (including across the lake).

E. **Back yard lighting on lakefront properties must not be an annoyance to the neighbors, as determined by the ARC.**

F. **ALL LANDSCAPING LIGHTING** requires ARC approval.

#### XI. **ADDITIONAL MODIFICATIONS**

A. **WINDOW TINTING** does not require ARC approval. Mirror or foil finishes are NOT allowed.

B. Modification to or replacing of the **FRONT ENTRY DOOR** or adding **SCREEN DOORS, SECURITY DOORS OR WROUGHT IRON ENTRY FENCING AND GATE** requires ARC approval.

C. **SOLAR SCREENING** on windows does not require ARC approval if one of the following colors is used:

|             |               |             |
|-------------|---------------|-------------|
| Silver Gray | Bronze        | Dark Bronze |
| Charcoal    | Antique White | Gold        |

D. **WINDOW COVERINGS** such as Rolladen rolling coverings must be submitted to the ARC and must match the house exterior or trim color and are not allowed on the front door.

E. **PLAY EQUIPMENT** (Revised 9/29/2010)

1. All large play equipment, including but not limited to, large swing set gymnastic and climbing structures, playhouses and trampolines must be approved by the ARC. Specific attention will be placed on location and impacted neighbor notification.
2. All play equipment must be installed not closer than five (5) feet to any property wall.
3. All play equipment (to include the surround for a trampoline) must be screened with non-deciduous vegetation if visible above the perimeter walls.
4. Play equipment which cannot be seen above any surrounding fence does not require approval of the ARC.

F. **BASKETBALL BACKBOARDS** require approval of the ARC. They cannot be affixed to any structure. They may be mounted on a free-standing pole which can be permanent or movable. Permanent poles are to be installed in the rear yards only. They may not be installed in the front of the property.

G. **PORTABLE BASKETBALL BACKSTOPS** do not require approval by the ARC and may be used in the front of the residence provided they meet the following criteria:

1. They cannot remain on the sidewalk or street when not in use.
2. They should be stored on the side of the house or behind the gate when applicable or in the garage.
3. Be aware of the impact this unit has upon your neighbors.

H. **PHOTOVOLTAIC SOLAR PANEL INSTALLATIONS** will generally be approved. Roof mounted panels should be installed on the side or rear slopes of the roof when possible. The additional wall-mounted equipment and conduits should be painted to match the house, screened from view or be located out of view of neighboring lots.

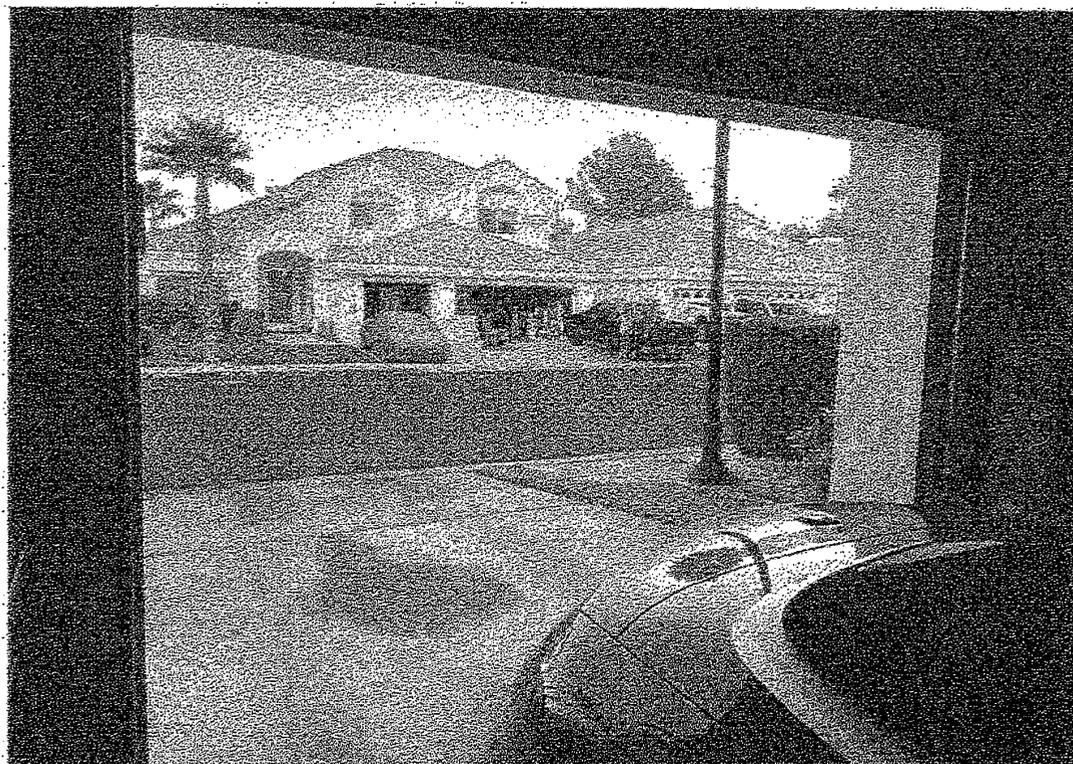
I. **SKYLIGHTS** require ARC approval.

- J. HOUSE NUMBERS** are required, should be visible and must be in harmony with the surrounding community. If the design is different from the rest of the community, must receive ARC approval.
- K. AWNINGS**, canvas covered frames or similar structures that shelter a window.
1. Awnings require prior approval of the ARC. They must be of canvas or approved fabric and of solid colors. Awnings must be properly maintained to the satisfaction of the ARC and may not be kept where frayed, split, torn or faded.
  2. Awnings must be attached to the structure with no outside ground supports.
  3. Awnings on the side of the house will be considered on a case by case basis.
- L. AIR CONDITIONERS ARE PROHIBITED ON ROOF TOPS.** Any exterior air conditioner, other than those installed by the builder, must be submitted to the ARC for approval prior to installation. **WINDOW AIR CONDITIONERS** are **NOT** allowed. Addition of **DUCTLESS SYSTEMS** requires ARC approval with specific attention to the exterior venting.
- M. EXTERIOR PAINTING: ALL COLORS MUST BE** selected from the color palette located in the DSCA Office. All exterior painting of dwelling or walls (including fencing) requires prior submittal and ARC approval. Painting of homes or exterior walls without prior approval is subject to fines and possibly non-compliance liens. (Paint Color Palette updated and approved 6/22/2016).
- N. GUTTERS AND DOWNSPOUTS** must be approved by the ARC and must be painted to match the adjacent roof and/or wall material.
- O. SATELLITE DISHES** do not need to be approved by the ARC, however they must meet the following restrictions: (Revised 3/25/2015)
1. May not exceed a diameter of one (1) meter (39.37").
  2. Shrouded "umbrella type" satellite dishes are strictly prohibited.
  3. The wiring/cords shall be painted the color of the house and attached to the house.
  4. Satellite dishes shall not be mounted on the shared property walls, either between houses or on perimeter roads.
  5. The following are preferred placement locations:
    - a) On the rear of the home,
    - b) On either side of the home, at least 10' back from the front.
    - c) Behind the front facing wall to the back yard.
    - d) On a post in the back yard with the post and satellite dish height not to exceed the height of the wall enclosing the back yard.
- P. RECREATIONAL VEHICLES** such as motor homes, boats, trailers, campers, and jet skis, etc. may not be parked in the community except within an enclosed structure. The Association does recognize the need for members to prepare such vehicles for use and as such will allow vehicles to be temporarily parked for a period not to exceed 24 hours in preparation for use. All recreational vehicles stored on any property must be located behind screened gates or in the garage. Any construction for concrete parking slab, cover, gates or screening must be reviewed by the ARC.

- Q. INTERIOR WINDOW COVERINGS** : Permanent interior window coverings must be installed within 90 days after close of escrow. Torn or broken window blinds or coverings must be replaced. Mirror or foil coverings are not allowed. When using temporary window coverings, please refer to Article VIII, Section 8.07, Unsightly Articles of the CC&Rs.
  - R. BARS** are not allowed on the exterior of windows. Security Film is allowed without a mirrored finish.
  - S. PIGEON CONTROL SPIKES** metal or plastic are allowed without ARC approval. No visible chicken wire or mesh is allowed unless painted to match the roof, house or trim color.
- XII. NOISE RESTRICTIONS** – Work hours are from 7:00am to 9:00pm Monday through Saturday. Exceptions may be allowed during summer due to weather. Please be considerate of your neighbors.

If you have any questions about these Architectural Guidelines please contact the Desert Shores Community Association office for assistance.

**Attachment 7:  
Photos of Applicant Conducting Commercial  
Construction Activities from his Residence**



*Photo 1: Construction Activity*

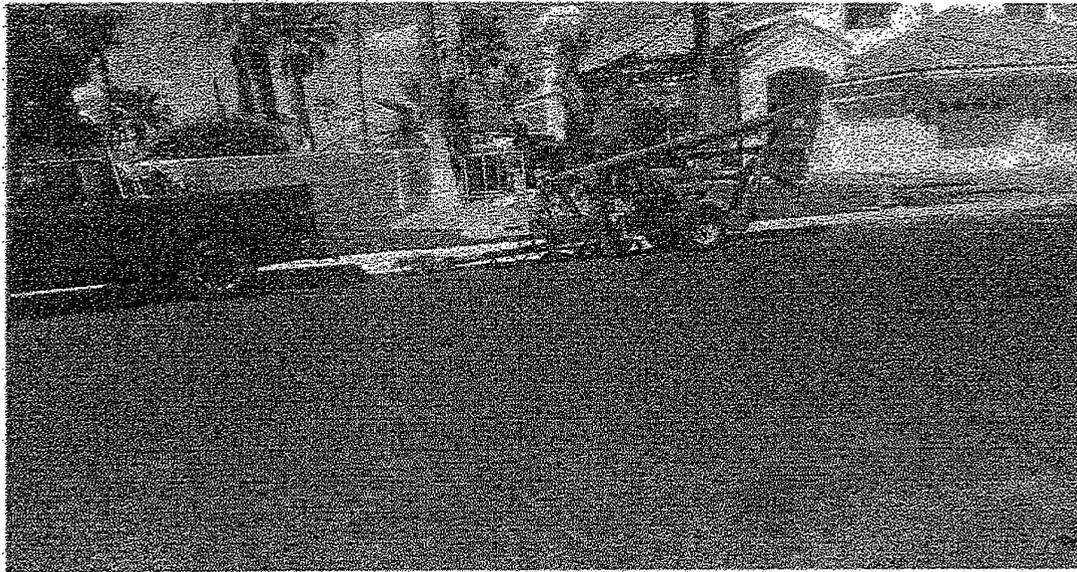


*Photo 2 Construction Activity*



Photo 3. Construction Activity

*Screenshot 1: Screenshot from Movie of Construction Activity*



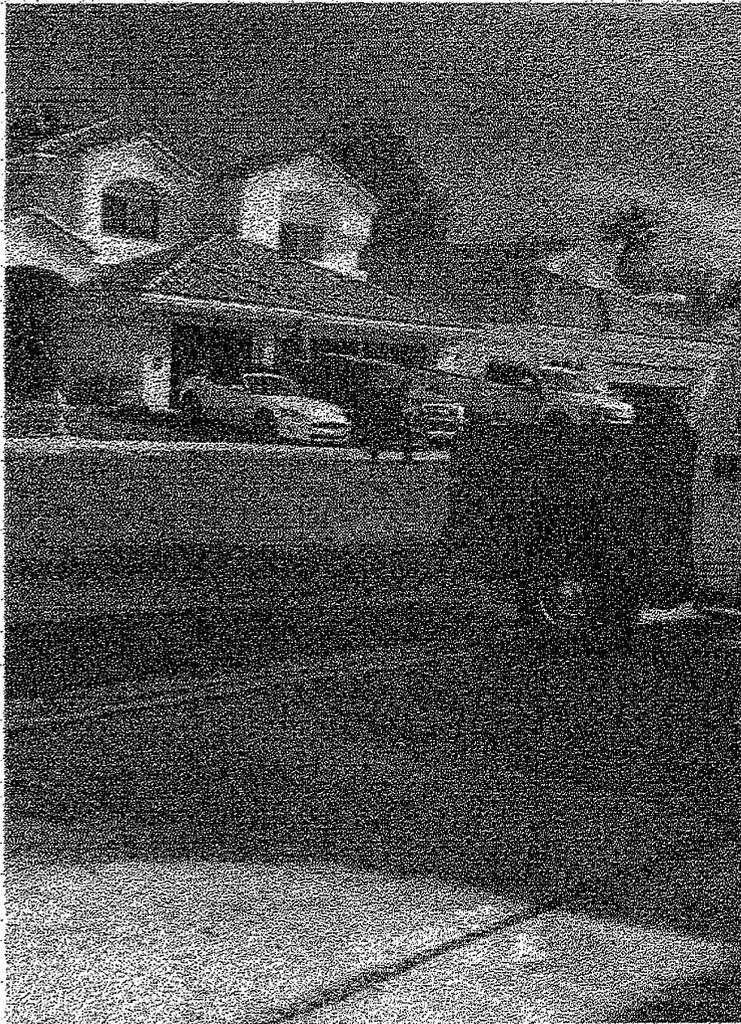


*Photo -4: Construction Activity.*



Photo 5: Construction Activity.

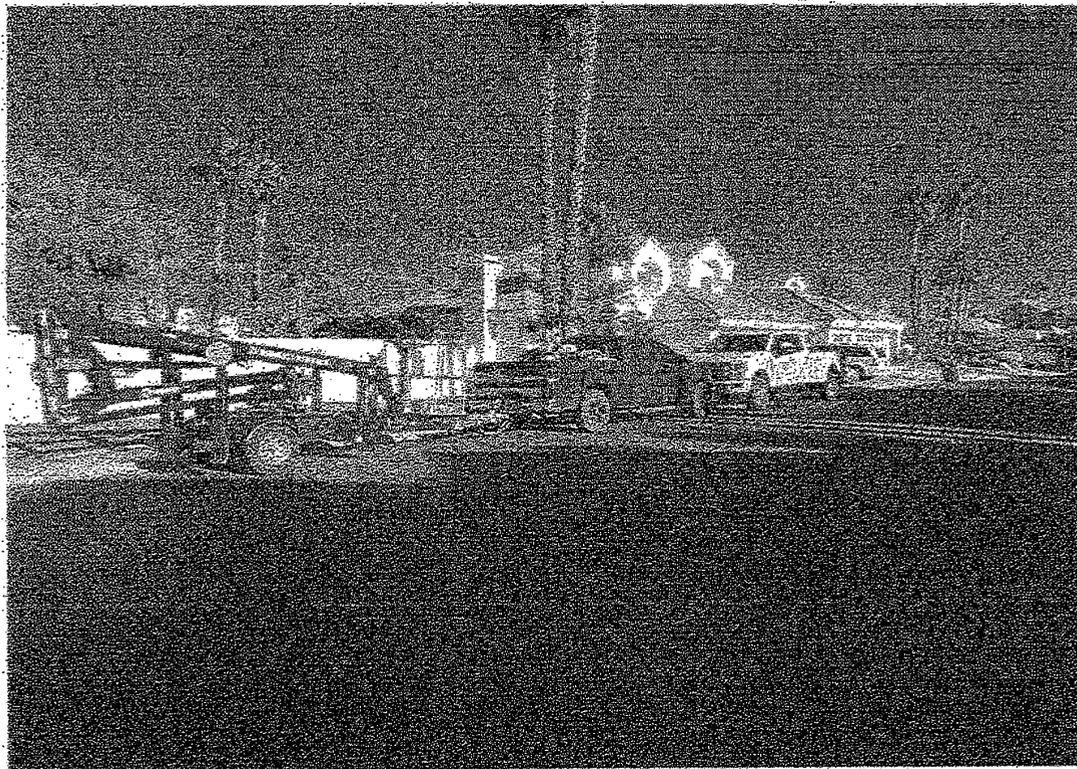
Screenshot 2: Screenshot from Movie of Construction Activity





*Photo 6: Construction Activity*

17029209747



*Photo 7 Construction Activity*

Screenshot 3: Screenshot from Movie of Construction Activity



City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- Our HOAs don't allow walls like this in front yards.
- Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: *Seth Davis*

Printed Name: Cel DAVIS

Address: 8112 Pacific Cove Dr.

Date: 3/24/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: \_\_\_\_\_



Printed Name: \_\_\_\_\_

SETH DAVIS

Address: \_\_\_\_\_

8117 PACIFIC COVE DR

Date: \_\_\_\_\_

3-23-25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

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- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

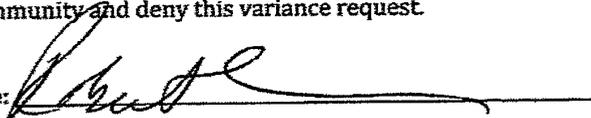
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- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature:



Printed Name:

ROBERT KUMMER

Address:

8109 Sunset Cove Drive, LV, NV 89128

Date:

3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
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**2. Personal/Financial Gain:**

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- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

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**4. Harms Community Look & Rules:**

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- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,  
Homeowner Signature: Christine LaValle

Printed Name: CHRISTINE LAVALLE

Address: 8109 Sunset Cove Las Vegas, Nevada 89128

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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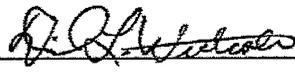
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- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,  
 Homeowner Signature:   
 Printed Name: David Westcott  
 Address: 3128 Bay Harbor Dr.  
 Date: 3/24/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- - Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- - The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Gina Kaehn-Westcott

Address: 8128 Bay Harbor Dr.

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: *Denise Duff*

Printed Name: Denise Duff

Address: 8133 Bay Harbor Drive Las Vegas 89108

Date: 3-23-2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Cheyl Raleigh-DuRoff

Printed Name: Cheyl Raleigh-DuRoff

Address: 8133 Bay Harbor Dr Las Vegas 89128

Date: 3-23-2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: RAFAEL SIEUENZA

Address: 8136 BAY HARBOR DR.

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Richard Weinman

Printed Name: RICHARD WEINMAN

Address: 8105 SUNSET COVE DRIVE

Date: 3/23/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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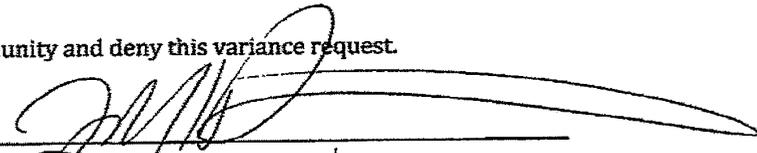
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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: \_\_\_\_\_



Printed Name: \_\_\_\_\_

JEFF PETERMAN

Address: \_\_\_\_\_

8101 Sunset Cove Drive

Date: \_\_\_\_\_

3/23/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Ekaterina Tsoncheva

Address: 8101 Sunset Cove Dr

Date: 3/23/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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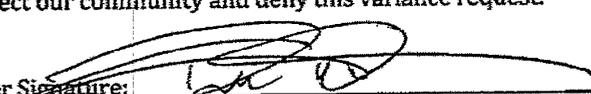
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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Rick Ramat

Address: 8104 Pacific Cove Dr

Date: 3-22-25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Karen S. Andrews

Printed Name: Karen S. Andrews

Address: 2972 Sun Lake Dr.

Date: 3/21/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Ellen Schunk

Printed Name: ELLEN SCHUNK

Address: 8105 SUNSET COVE DRIVE

Date: 3-20-2025

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Greg Bristow

Printed Name: GREG BRISTOW

Address: 8116 PACIFIC COVE DR

Date: 3/20/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Mark R Thompson

Printed Name: MARK R THOMPSON

Address: 8116 Pacific Cove Dr.

Date: MARCH 20, 25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature:

*Trudy Largent*

Printed Name:

TRUDY LARGENT

Address:

8104 Sunset Cove Dr

Date:

3/23/25

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: M. SHEIKHAL

Address: 2964 SUN LAKE

Date: 3/23/25

City of Las Vegas -- Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Alan Nicolson

Address: 8116 Sunset Cove Dr

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,  
 Homeowner Signature: *D. Nicolson*  
 Printed Name: D. Nicolson  
 Address: 8116 Sunset Cove Dr - 89128  
 Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: AIDA BARRETTO

Address: 8100 SUNSET COVE DR 89128

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Alain COHEN

Address: 8108 Sunset Cove Dr Las Vegas NV 89128

Date: 03/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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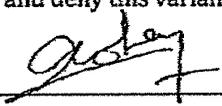
- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Liza COHEN

Address: 8108 Sunset Cove Dr Las Vegas NV 89128

Date: 03/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- - Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- - The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

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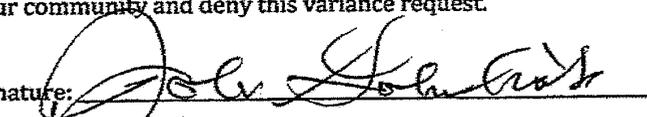
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- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature:



Printed Name:

JOHN SOLUBERT

Address:

8112 SUNSET COVE

Date:

3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

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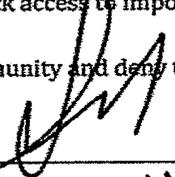
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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Samantha Spangard

Address: 8117 Sunset Cove Dr, NV 89128

Date: 3/23/25

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Mark Peterson

Address: 817 Sunset Cove Dr.

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Mary A. Fabré

Printed Name: Mary A. Fabré

Address: 8149 Bay Harbor Drive Las Vegas, NV 89128

Date: 03/21/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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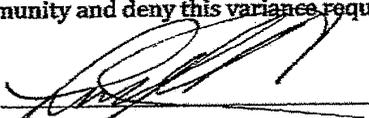
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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Lois R. Fabro

Address: 8149 Bay Harbor Dr. LAS VEGAS, NV 89128

Date: 3-21-25

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planting Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: *John Pettech*

Printed Name: John Pettech

Address: 8133 Lakehills Dr, 89128

Date: 3/22/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Michael L. Rubens

Printed Name: Michael L. Rubens

Address: 3001 Harbor Cove DR.

Date: 3/22/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Veronica DuVal

Printed Name: Veronica DuVal

Address: 3001 Harbor Cove DR.

Date: 3/22/25

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Gary Edwards

Printed Name: GARY EDWARDS

Address: 2954 Sun Lake Dr, 89128

Date: 22 Mar 25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature:

*Valerie Edwards*

Printed Name:

Valerie Edwards

Address:

2954 Sun Lake Dr, Las Vegas NV 89128

Date:

02 March 25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: TIFFANY SAMPSON

Address: 8152 Bay Harbor Dr, Las Vegas NV 89128

Date: 3/23/2025

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

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Please protect our community and deny this variance request

Thank you,

Homeowner Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

*Patrick Samson*  
PATRICK SAMSON

2152 BAY HARBOR DR. LAS VEGAS 89128

3/23/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: *Wanda J. Kotas*

Printed Name: \_\_\_\_\_

Address: *8128 Pacific Cove Dr*

Date: *3/21/2025*

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Martha Kilcoyne

Printed Name: Martha Kilcoyne

Address: 6132 Lake Hills

Date: 3.22.25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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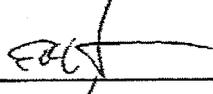
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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: F. Mark

Address: 8125 Harbor Cove Dr

Date: 3/21/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Shelly Kerr

Printed Name: Shelly Kerr

Address: 8128 Pacific Cove Dr.

Date: 03/21/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Francis Baum

Printed Name: FRANCIS BAUM

Address: 8121 Pacific Cove Dr., LV, NV 89128

Date: 3/22/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

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- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Mary Courtney

Printed Name: Mary Courtney

Address: 2134 Pacific Cove Dr

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: April 8, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- - Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- - The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Michael Courtney

Printed Name: MICHAEL COURTNEY

Address: 8124 Pacific Cove Dr W NV 89128

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- - Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- - The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Sammy Poole

Address: 2925 Harbor Cove Dr

Date: 3/23/25

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- Our HOAs don't allow walls like this in front yards.
- Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature:

*Pamela J. Hartung*

Printed Name:

PAMELA J. HARTUNG

Address:

8720 SUNSET COVE DR

Date:

3-23-2025

City of Las Vegas  
 Department of Community Development  
 495 South Main Street  
 Las Vegas, Nevada 89101

Reference: 24-0640-VARI

Planning Commission Meeting: March 11, 2025

April 18, 2025

To Whom It May Concern:

I oppose the proposed relocation of the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. The variance (24-0640-VARI) should be denied for the following reasons:

1. The existing wall does not present "... peculiar and exceptional difficulties ..." or "exceptional and undue hardships ... to the owner" as required by Title 19.16.140(L). Hardships cited by applicant include privacy, loitering, trash and pet waste.
  - a. Privacy: The existing wall is located along the frontage of the property with a setback of approximately 16 feet. Pedestrians on the sidewalk cannot see into applicant's yard from the sidewalk. The proposed wall will be located 16 inches from the common area sidewalk and will allow pedestrians on the sidewalk to view applicant's entire yard. Therefore, the proposed wall does not solve a privacy concern, it creates one. By planting trees or bushes along the existing wall, applicant can effectively address his privacy concerns without moving the existing wall.
  - b. Loitering: There are no loitering issues in our community. Any loitering issues can be adequately addressed through the HOA.
  - c. Trash: Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Any littering issues can be adequately addressed through the HOA.
  - d. Pet Waste: Pet waste is not a problem in the community. The HOA has installed pet waste stations throughout the community, and one is in the park next to applicant's property. The HOA has specific rules governing walking pets and the disposal of pet waste. Any littering issues can be adequately addressed through the HOA.
2. The City of Las Vegas cannot grant a variance when the applicant seeks the variance to "... relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16.140(B)).
  - a. The applicant appears to operate a handyman/construction business and use his garages for storage of construction-related materials. There is reasonable concern that the applicant's stated justifications are a pretext for enlarging his backyard area to create open storage and/or storage structures for construction materials, equipment, vehicles and miscellaneous items.
  - b. There is also reasonable concern that applicant desires to construct the proposed wall to increase the footprint of his usable yard which would increase the overall economic value of his parcel.
  - c. There is reasonable concern that the applicant could eventually seek to construct a rolling-gate to access his yard and facilitate his commercial activity.
3. The proposed project was not submitted and approved by either Harbor Cove HOA or Desert Shores HOA.
  - a. The Planning Commission's Staff report states that "The applicant has provided a copy an approval letter from the Homeowner's Association." In fact, neither Desert

Shores HOA or Harbor Cove HOA have fully reviewed or approved the proposed project.

4. The proposed wall alters the architectural integrity of the Harbor Cove community, creates uncertainty in terms of maintenance and liability and fails to comply with HOA rules governing frontage walls and setbacks.

- A. Desert Shores and Harbor Cove governing documents only allow walls of the type proposed by applicant to be constructed on side yard and backyard property lines.
- B. Frontage walls like the one being proposed do not exist in Harbor Cove and are prohibited by the Harbor Cove and Desert Shores governing documents. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8, 2002, Section II, p. 6; Desert Shores Community Association Architectural Guidelines, Article II, p. 12)
- C. Changing applicant's frontage wall location and height substantially impacts the architectural and visual sight lines of the parcel from the standpoint of pedestrians using the common areas.
- D. Locating the proposed wall adjacent to the HOA common area creates potential HOA maintenance issues and liabilities.
- E. The proposed wall may impede access to underground utilities now or in the future, including utilities which were originally designed to serve the HOA common areas.

Sincerely,

*Wayne A. Duff, Sr.*

Homeowner Signature:

*Cynthia Duff*

Homeowner Name (Print):

*Wayne A. Duff, Sr.  
Cynthia Duff*

Homeowner Address:

*2929 Harbor Cove Dr. LV NV 89108*

Date:

*3/19/2025*

1

City of Las Vegas  
Department of Community Development  
495 South Main Street  
Las Vegas, Nevada 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

To Whom It May Concern:

I oppose the proposed relocation of the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. The variance (24-0640-VARI) should be denied for the following reasons:

- 1. The existing wall does not present "... peculiar and exceptional difficulties ..., or exceptional and undue hardships ... to the owner" as required by Title 19.16.140(L). Hardships cited by applicant include privacy, loitering, trash and pet waste.**
  - a. Privacy:** The existing wall is located along the frontage of the property with a setback of approximately 16 feet. Pedestrians on the sidewalk cannot see into applicant's yard from the sidewalk. The proposed wall will be located 16 inches from the common area sidewalk and will allow pedestrians on the sidewalk to view applicant's entire yard. Therefore, the proposed wall does not solve a privacy concern, it creates one. By planting trees or bushes along the existing wall, applicant can effectively address his privacy concerns without moving the existing wall.
  - b. Loitering:** There are no loitering issues in our community. Any loitering issues can be adequately addressed through the HOA.
  - c. Trash:** Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Any littering issues can be adequately addressed through the HOA.
  - d. Pet Waste:** Pet waste is not a problem in the community. The HOA has installed pet waste stations throughout the community, and one is in the park next to applicant's property. The HOA has specific rules governing walking pets and the disposal of pet waste. Any littering issues can be adequately addressed through the HOA.
- 2. The City of Las Vegas cannot grant a variance when the applicant seeks the variance to "... relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16140(B)).**
  - a.** The applicant appears to operate a handyman/construction business and use his garages for storage of construction-related materials. There is reasonable concern that the applicant's stated justifications are a pretext for enlarging his backyard area to create open storage and/or storage structures for construction materials, equipment, vehicles and miscellaneous items.
  - b.** There is also reasonable concern that applicant desires to construct the proposed wall to increase the footprint of his usable yard which would increase the overall economic value of his parcel.
  - c.** There is reasonable concern that the applicant could eventually seek to construct a rolling-gate to access his yard and facilitate his commercial activity.
- 3. The proposed project was not submitted and approved by either Harbor Cove HOA or Desert Shores HOA.**
  - a.** The Planning Commission's Staff report states that "The applicant has provided a copy an approval letter from the Homeowner's Association." In fact, neither Desert

Shores HOA or Harbor Cove HOA have duly reviewed or approved the proposed project.

**4. The proposed wall alters the architectural integrity of the Harbor Cove community, creates uncertainty in terms of maintenance and liability and fails to comply with HOA rules governing frontage walls and setbacks.**

- a.** Desert Shores and Harbor Cove governing documents only allow walls of the type proposed by applicant to be constructed on side yard and backyard property lines.
- b.** Frontage walls like the one being proposed do not exist in Harbor Cove and are prohibited by the Harbor Cove and Desert Shores governing documents. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8, 2002, Section II, p.6; Desert Shores Community Association Architectural Guidelines, Article II, p. 12)
- c.** Changing applicant's frontage wall location and height substantially impacts the architectural and visual sight lines of the parcel from the standpoint of pedestrians using the common areas.
- d.** Locating the proposed wall adjacent to the HOA common area creates potential HOA maintenance issues and liabilities.
- e.** The proposed wall may impede access to underground utilities now or in the future, including utilities which were originally designed to serve the HOA common areas.

Sincerely,

Homeowner Signature: 

Homeowner Name (Print): DOUG BECKLAND

Homeowner Address: 8128 SUNSET COVE DR

Date: 3-23-2025

1

City of Las Vegas  
Department of Community Development  
495 South Main Street  
Las Vegas, Nevada 89101

**Reference: 24-0640-VARI**  
**Planning Commission Meeting: March 11, 2025**

To Whom It May Concern:

I oppose the proposed relocation of the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. The variance (24-0640-VARI) should be denied for the following reasons:

1. **The existing wall does not present "... peculiar and exceptional difficulties ..., or exceptional and undue hardships ... to the owner" as required by Title 19.16.140(L). Hardships cited by applicant include privacy, loitering, trash and pet waste.**
  - a. **Privacy:** The existing wall is located along the frontage of the property with a setback of approximately 16 feet. Pedestrians on the sidewalk cannot see into applicant's yard from the sidewalk. The proposed wall will be located 16 inches from the common area sidewalk and will allow pedestrians on the sidewalk to view applicant's entire yard. Therefore, the proposed wall does not solve a privacy concern, it creates one. By planting trees or bushes along the existing wall, applicant can effectively address his privacy concerns without moving the existing wall.
  - b. **Loitering:** There are no loitering issues in our community. Any loitering issues can be adequately addressed through the HOA.
  - c. **Trash:** Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Any littering issues can be adequately addressed through the HOA.
  - d. **Pet Waste:** Pet waste is not a problem in the community. The HOA has installed pet waste stations throughout the community, and one is in the park next to applicant's property. The HOA has specific rules governing walking pets and the disposal of pet waste. Any littering issues can be adequately addressed through the HOA.
  
2. **The City of Las Vegas cannot grant a variance when the applicant seeks the variance to "...relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16140(B)).**
  - a. The applicant appears to operate a handyman/construction business and use his garages for storage of construction-related materials. There is reasonable concern that the applicant's stated justifications are a pretext for enlarging his backyard area to create open storage and/or storage structures for construction materials, equipment, vehicles and miscellaneous items.

- b. There is also reasonable concern that applicant desires to construct the proposed wall to increase the footprint of his usable yard which would increase the overall economic value of his parcel.
  - c. There is reasonable concern that the applicant could eventually seek to construct a rolling-gate to access his yard and facilitate his commercial activity.
- 3. The proposed project was not submitted and approved by either Harbor Cove HOA or Desert Shores HOA.**
- a. The Planning Commission's Staff report states that "The applicant has provided a copy an approval letter from the Homeowner's Association." In fact, neither Desert Shores HOA or Harbor Cove HOA have duly reviewed or approved the proposed project.
- 4. The proposed wall alters the architectural integrity of the Harbor Cove community, creates uncertainty in terms of maintenance and liability and fails to comply with HOA rules governing frontage walls and setbacks.**
- a. Desert Shores and Harbor Cove governing documents only allow walls of the type proposed by applicant to be constructed on side yard and backyard property lines.
  - b. Frontage walls like the one being proposed do not exist in Harbor Cove and are prohibited by the Harbor Cove and Desert Shores governing documents. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8,2002, Section II, p.6; Desert Shores Community Association Architectural Guidelines, Article II, p.12)
  - c. Changing applicant's frontage wall location and height substantially impacts the architectural and visual sight lines of the parcel from the standpoint of pedestrians using the common areas.
  - d. Locating the proposed wall adjacent to the HOA common area creates potential HOA maintenance issues and liabilities.
  - e. The proposed wall may impede access to underground utilities now or in the future, including utilities which were originally designed to serve the HOA common areas.

Sincerely,

Homeowner Signature: *Alyce Faye Beckland*

Homeowner Name (Print): ALYCE FAYE BECKLAND

Homeowner Address: 8128 SUNSET COVE DR.

Date: 3/23/25

City of Las Vegas  
Department of Community Development  
495 South Main Street  
Las Vegas, Nevada 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

To Whom It May Concern:

I oppose the proposed relocation of the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. The variance (24-0640-VARI) should be denied for the following reasons:

- 1. The existing wall does not present "... peculiar and exceptional difficulties ..., or exceptional and undue hardships ... to the owner" as required by Title 19.16.140(L). Hardships cited by applicant include privacy, loitering, trash and pet waste.**
  - a. Privacy:** The existing wall is located along the frontage of the property with a setback of approximately 16 feet. Pedestrians on the sidewalk cannot see into applicant's yard from the sidewalk. The proposed wall will be located 16 inches from the common area sidewalk and will allow pedestrians on the sidewalk to view applicant's entire yard. Therefore, the proposed wall does not solve a privacy concern, it creates one. By planting trees or bushes along the existing wall, applicant can effectively address his privacy concerns without moving the existing wall.
  - b. Loitering:** There are no loitering issues in our community. Any loitering issues can be adequately addressed through the HOA.
  - c. Trash:** Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Any littering issues can be adequately addressed through the HOA.
  - d. Pet Waste:** Pet waste is not a problem in the community. The HOA has installed pet waste stations throughout the community, and one is in the park next to applicant's property. The HOA has specific rules governing walking pets and the disposal of pet waste. Any littering issues can be adequately addressed through the HOA.
- 2. The City of Las Vegas cannot grant a variance when the applicant seeks the variance to "... relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16.140(B)).**
  - a.** The applicant appears to operate a handyman/construction business and use his garages for storage of construction-related materials. There is reasonable concern that the applicant's stated justifications are a pretext for enlarging his backyard area to create open storage and/or storage structures for construction materials, equipment, vehicles and miscellaneous items.
  - b.** There is also reasonable concern that applicant desires to construct the proposed wall to increase the footprint of his usable yard which would increase the overall economic value of his parcel.
  - c.** There is reasonable concern that the applicant could eventually seek to construct a rolling-gate to access his yard and facilitate his commercial activity.
- 3. The proposed project was not submitted and approved by either Harbor Cove HOA or Desert Shores HOA.**
  - a.** The Planning Commission's Staff report states that "The applicant has provided a copy an approval letter from the Homeowner's Association." In fact, neither Desert

Shores HOA or Harbor Cove HOA have duly reviewed or approved the proposed project.

**4. The proposed wall alters the architectural integrity of the Harbor Cove community, creates uncertainty in terms of maintenance and liability and fails to comply with HOA rules governing frontage walls and setbacks.**

- a.** Desert Shores and Harbor Cove governing documents only allow walls of the type proposed by applicant to be constructed on side yard and backyard property lines.
- b.** Frontage walls like the one being proposed do not exist in Harbor Cove and are prohibited by the Harbor Cove and Desert Shores governing documents. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8, 2002, Section II, p.6; Desert Shores Community Association Architectural Guidelines, Article II, p.12)
- c.** Changing applicant's frontage wall location and height substantially impacts the architectural and visual sight lines of the parcel from the standpoint of pedestrians using the common areas.
- d.** Locating the proposed wall adjacent to the HOA common area creates potential HOA maintenance issues and liabilities.
- e.** The proposed wall may impede access to underground utilities now or in the future, including utilities which were originally designed to serve the HOA common areas.

Sincerely,

Homeowner Signature: *Drew Lefante*

Homeowner Name (Print): Drew Lefante

Homeowner Address: 8125 SUNSET CUBE LV NV

Date: 3/20/2025

City of Las Vegas  
Department of Community Development  
495 South Main Street  
Las Vegas, Nevada 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

To Whom It May Concern:

I oppose the proposed relocation of the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. The variance (24-0640-VARI) should be denied for the following reasons:

- 1. The existing wall does not present "... peculiar and exceptional difficulties .... or exceptional and undue hardships ... to the owner" as required by Title 19.16.148(L). Hardships cited by applicant include privacy, loitering, trash and pet waste.**
  - a. Privacy:** The existing wall is located along the frontage of the property with a setback of approximately 16 feet. Pedestrians on the sidewalk cannot see into applicant's yard from the sidewalk. The proposed wall will be located 16 inches from the common area sidewalk and will allow pedestrians on the sidewalk to view applicant's entire yard. Therefore, the proposed wall does not solve a privacy concern, it creates one. By planting trees or bushes along the existing wall, applicant can effectively address his privacy concerns without moving the existing wall.
  - b. Loitering:** There are no loitering issues in our community. Any loitering issues can be adequately addressed through the HOA.
  - c. Trash:** Littering is not an issue in the HOA. The community is well-maintained and there are trash stations throughout the common areas. One is located next to applicant's property. Any littering issues can be adequately addressed through the HOA.
  - d. Pet Waste:** Pet waste is not a problem in the community. The HOA has installed pet waste stations throughout the community, and one is in the park next to applicant's property. The HOA has specific rules governing walking pets and the disposal of pet waste. Any littering issues can be adequately addressed through the HOA.
- 2. The City of Las Vegas cannot grant a variance when the applicant seeks the variance to "... relieve a hardship which is solely personal, self-created or financial in nature" (Title 19.16140(B)).**
  - a.** The applicant appears to operate a handyman/construction business and use his garages for storage of construction-related materials. There is reasonable concern that the applicant's stated justifications are a pretext for enlarging his backyard area to create open storage and/or storage structures for construction materials, equipment, vehicles and miscellaneous items.
  - b.** There is also reasonable concern that applicant desires to construct the proposed wall to increase the footprint of his usable yard which would increase the overall economic value of his parcel.
  - c.** There is reasonable concern that the applicant could eventually seek to construct a rolling-gate to access his yard and facilitate his commercial activity.
- 3. The proposed project was not submitted and approved by either Harbor Cove HOA or Desert Shores HOA.**
  - a.** The Planning Commission's Staff report states that "The applicant has provided a copy an approval letter from the Homeowner's Association." In fact, neither Desert

Shores HOA or Harbor Cove HOA have duly reviewed or approved the proposed project.

4. The proposed wall alters the architectural integrity of the Harbor Cove community, creates uncertainty in terms of maintenance and liability and fails to comply with HOA rules governing frontage walls and setbacks.

- a. Desert Shores and Harbor Cove governing documents only allow walls of the type proposed by applicant to be constructed on side yard and backyard property lines.
- b. Frontage walls like the one being proposed do not exist in Harbor Cove and are prohibited by the Harbor Cove and Desert Shores governing documents. (See Harbor Cove Architectural Standard & Guidelines, Revised August 8, 2002, Section II, p.6; Desert Shores Community Association Architectural Guidelines, Article II, p.12)
- c. Changing applicant's frontage wall location and height substantially impacts the architectural and visual sight lines of the parcel from the standpoint of pedestrians using the common areas.
- d. Locating the proposed wall adjacent to the HOA common area creates potential HOA maintenance issues and liabilities.
- e. The proposed wall may impede access to underground utilities now or in the future, including utilities which were originally designed to serve the HOA common areas.

Sincerely,

Homeowner Signature: Min Laplante

Homeowner Name (Print): MIN Laplante

Homeowner Address: 8129 Sunset Cove LV NV

Date: 3/22/2025

1

City of Las Vegas - Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- Our HOAs don't allow walls like this in front yards.
- Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: Maria Hag

Printed Name: Maria Hag

Address: 8700 Harbor Cove Dr., Las Vegas, NV 89128

Date: 3/23/2025

City of Las Vegas – Department of Community Development  
495 South Main Street  
Las Vegas, NV 89101

Reference: 24-0640-VARI  
Planning Commission Meeting: March 11, 2025

Dear City of Las Vegas,

I strongly oppose the request to move the frontage wall at 2980 Harbor Cove Drive, Las Vegas, NV 89128. Please deny variance 24-0640-VARI for these reasons:

**1. No Real Hardship:**

- - The current wall already gives the homeowner privacy. Moving it closer to the sidewalk will actually reduce privacy, not improve it.
- - Problems like loitering, trash, or pet waste are not an issue in our community. The HOA already has rules and systems in place to handle them.

**2. Personal/Financial Gain:**

- - The homeowner seems to be using his garages for a construction business. There's concern he wants to expand his yard for storing materials, equipment, or vehicles.
- - Moving the wall could increase his property value or lead to adding gates for business use, which is not allowed.

**3. No HOA Approval:**

- - Both Harbor Cove HOA and Desert Shores HOA have NOT reviewed or approved this project, despite claims in the application.

**4. Harms Community Look & Rules:**

- - Our HOAs don't allow walls like this in front yards.
- - Changing the wall will harm the clean, open look of Harbor Cove and could cause maintenance and liability issues for the HOA.
- - It may also block access to important utilities in the future.

Please protect our community and deny this variance request.

Thank you,

Homeowner Signature: 

Printed Name: Haroon Haq

Address: 8100 Pacific Cove Dr, Las Vegas, 89128

Date: March 23, 2025