



AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: SEPTEMBER 18, 2024
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT/OWNER: MARGARITA HERNANDEZ
CARDENAS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0250-WVR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 206 (by City Clerk)

PROTESTS 2

APPROVALS 1

**** CONDITIONS ****

24-0250-WVR1 CONDITIONS

Planning

1. A Waiver is hereby approved to allow an existing six-foot tall fence erected between the front property line and the primary structure where five feet is the maximum allowed. The screen mesh shall be removed from the upper four feet, only remaining on the lower two feet and on the pedestrian gate, with a single solid slot allowed to remain solid next to the security gate for the entire six feet.
2. A Waiver is hereby approved to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Detached Carport].
3. A Waiver is hereby approved to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Detached Carport].
4. A Waiver is hereby approved to allow an existing Residential Accessory Structure [Detached Carport] to not be aesthetically compatible with the principal dwelling unit where such is required.
5. A Waiver is hereby approved to allow an existing Residential Accessory Structure [Detached Carport] to extend into the front yard setback area where such is not allowed.
6. A Waiver is hereby approved to allow a total accessory structure size of 61 percent of the principal dwelling floor area where 50 percent is the maximum allowed.
7. The existing shade structure encroaching between the subject property and 622 Biltmore Drive shall be removed.
8. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
9. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.

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Planning (continued)

10. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
11. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

12. Submit a License Agreement for landscaping and private improvements (such as fencing, gate, and a portion of the carport) in the Biltmore Drive public right(s)-of-way, if any, prior to the issuance of permits for these improvements. If requested by the City, the applicant shall remove property within the public right-of-way at the applicant's expense pursuant to the terms of the City's License Agreement. The installation and maintenance of all private improvements in the public right-of-way shall be the responsibility of the applicant and any successors in interest to the property and assigns pursuant to the terms of the License Agreement. Coordinate all requirements for the License Agreement with the Land Development Section of the Department of Community Development (229-5460).

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Waiver request for an existing Residential Accessory Structure [Detached Carport] and front yard fence that do not meet Title 19 requirements at 626 Biltmore Drive.

ISSUES

- The requested Waiver is the result of a Code Enforcement Case (#CE23-04949) for unpermitted structures. The case remains open pending the result of this Waiver request.
- A Waiver is requested to allow an existing seven-foot tall fence erected between the front property line and the primary structure where five feet is the maximum allowed. The screen mesh shall be removed from the upper four feet, only remaining on the lower two feet and on the pedestrian gate, with a single solid slot allowed to remain solid next to the security gate, labeled as front door on the submitted site plan, for the entire six feet. Staff does not support this request.
- A Waiver is requested to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Detached Carport]. Staff does not support this request.
- A Waiver is requested to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Detached Carport]. Staff does not support this request.
- A Waiver is requested to allow an existing Residential Accessory Structure [Detached Carport] to not be aesthetically compatible with the principal dwelling unit where such is required. Staff does not support this request.
- A Waiver is hereby approved to allow an existing Residential Accessory Structure [Detached Carport] to extend into the front yard setback area where such is not allowed. Staff does not support this request.
- A Waiver is requested to allow a total accessory structure size of 61 percent of the principal dwelling floor area where 50 percent is the maximum allowed. Staff does not support this request.
- Any deviation from Title 19 Development Standards shall require the approval of a Waiver per Appendix F: Interim Downtown Las Vegas Development Standards.
- This Waiver request is made in conjunction with the City of Las Vegas Safe Home Improvements Funding and Training (SHIFT) program.
- Aerial imagery of the property shows an existing metal shade structure that encroaches between the subject property and the neighboring property to the south at 622 Biltmore Drive. A condition of approval has been added for the structure to be removed.

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ANALYSIS

The subject site is zoned R-1 (Single Family Residential) and located within Area 2 of the Downtown Las Vegas Overlay (Cashman District). It is developed with a single-family residential dwelling and is subject to the Appendix F Interim Downtown Las Vegas Development Standards.

A Code Enforcement case (#CE23-04949) was opened on 07/17/23 for the subject property and an onsite inspection conducted on 02/14/24 resulted in violations of unpermitted structures. The case remains unresolved, pending the results of this Waiver (24-0250-WVR1) request.

Per Appendix F Interim Downtown Las Vegas Development Standards, all development occurring within Area 2 of the Downtown Las Vegas overlay shall conform to Title 19 of the Las Vegas Municipal Code. Any deviation from Title 19 Development Standards shall require the approval of a Waiver. As such, the applicant is requesting a Waiver (24-0250-WVR1) for an existing fence and Residential Accessory Structure [Detached Carport].

The following table depicts the applicable development and design standards concerning Residential Accessory Structures and Walls and Fences with the requested deviations included in this request:

<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
Three-foot side yard setback	To allow a zero-foot side yard setback for an existing Residential Accessory Structure [Detached Carport].	19.06.070	Denial
Six-foot separation from the main building	To allow a zero-foot separation for an existing Residential Accessory Structure [Detached Carport].	19.06.070	Denial
No accessory structure is permitted in front of the primary structure	To allow an existing Residential Accessory Structure [Detached Carport] to extend into the front yard setback area.	19.06.040 and 19.06.070	Denial

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<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
Accessory structures must be aesthetically compatible with the principal dwelling unit	To allow a Residential Accessory Structure [Detached Carport] to not be aesthetically compatible with the principal dwelling unit.	19.06.040	Denial
Size and coverage not to exceed 50% of the floor area of the principal dwelling unit	To allow a total accessory structure size of 61 percent of the primary dwelling floor area.	19.06.070	Denial
The maximum height of any wall or fence erected between the front property line and the primary structure shall not exceed five feet	To allow a seven-foot tall fence erected between the front property line and the primary structure.	Appendix F Interim Downtown Las Vegas Development Standards – Area 2	Denial

Aerial imagery of the property shows an existing metal shade structure that encroaches between the subject property and the neighboring property to the south at 622 Biltmore Drive. According to Clark County OpenWeb, the shade structure appeared between Spring 2013 and Spring 2015. Per the submitted justification letter, the shade structure on the subject site and the adjacent property to the south will be removed. A condition of approval has been added to address this issue.

The Vision 2045 Downtown Las Vegas Masterplan has identified the Cashman District as a historical and cultural hub for downtown Las Vegas with intent to re-imagine and redevelop the area. The goal of the Cashman District is to foster a community of entrepreneurs anchored by sports and culture. Staff has determined that the requested Waiver (24-0250-WVR1) does not support the City's goals as expressed in the Vision 2045 Downtown Las Vegas Master Plan for the Cashman District, as the applicant is requesting to maintain an existing detached carport and front yard fence that do not comply with Title 19 Development Standards and do not relate to the goals and vision to the Cashman District.

FINDINGS (24-0250-WVR1)

In accordance with the Appendix F Interim Downtown Las Vegas Development Standards, any deviation from Title 19 Development Standards that supports the City’s goals as expressed in the Vision 2045 Downtown Las Vegas Masterplan and the district’s goals and descriptions as per Chapter II may only be granted by the City Council when supported through clear and convincing evidence, and shall require the approval of a Waiver per Section A.8.B.

The applicant has requested a Waiver (24-0250-WVR1) to deviate from Title 19 development standards. No clear and convincing evidence has been provided to support the request, therefore staff has does not support the requested Waiver. If approved, it will be subject to conditions.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
07/17/23	A Code Enforcement case (#CE23-04949) was processed for unpermitted carport, front yard fence, and refuse at 626 Biltmore Drive. The case remains open pending the results of this Waiver request.
04/16/24	A Code Enforcement case (#CE24-02621) was processed for a patio cover that extends over the property line at 622 Biltmore Drive adjacent to 626 Biltmore Drive. The case remains open pending the removal of the structure.
06/18/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW AN EXISTING SEVEN-FOOT TALL FENCE ERECTED BETWEEN THE FRONT PROPERTY LINE AND THE PRIMARY STRUCTURE WHERE FIVE FEET IS THE MAXIMUM ALLOWED; TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED, A ZERO-FOOT SEPARATION FROM THE PRIMARY DWELLING WHERE SIX FEET IS REQUIRED, TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED, AND TO EXTEND INTO THE FRONT YARD SETBACK AREA WHERE SUCH IS NOT ALLOWED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED CARPORT]; AND A TOTAL ACCESSORY STRUCTURE SIZE OF 61 PERCENT OF THE PRINCIPAL DWELLING FLOOR AREA WHERE 50 PERCENT IS THE MAXIMUM ALLOWED on 0.15 acres at 626 Biltmore Drive.

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<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.(continued)</i>	
08/13/24	The Planning Commission voted (6-0) to recommend APPROVAL on the following Land Use Entitlement project request TO ALLOW AN EXISTING SEVEN-FOOT TALL FENCE ERECTED BETWEEN THE FRONT PROPERTY LINE AND THE PRIMARY STRUCTURE WHERE FIVE FEET IS THE MAXIMUM ALLOWED; TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED, A ZERO-FOOT SEPARATION FROM THE PRIMARY DWELLING WHERE SIX FEET IS REQUIRED, TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED, AND TO EXTEND INTO THE FRONT YARD SETBACK AREA WHERE SUCH IS NOT ALLOWED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED CARPORT]; AND A TOTAL ACCESSORY STRUCTURE SIZE OF 61 PERCENT OF THE PRINCIPAL DWELLING FLOOR AREA WHERE 50 PERCENT IS THE MAXIMUM ALLOWED on 0.15 acres at 626 Biltmore Drive (APN 139-27-810-017), R-1 (Single Family Residential) Zone, Ward 5 (Crear).

<i>Most Recent Change of Ownership</i>	
11/23/21	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
No Related Building Permits/Business Licenses.	

<i>Pre-Application Meeting</i>	
05/02/24	The submittal requirements for a Waiver were provided to and discussed with the applicant.

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

<i>Field Check</i>	
05/07/24	Staff conducted a routine field check and observed an existing carport in the front yard area, front yard fence, and a shade structure located on the subject property and the neighboring property to the south. A condition of approval has been added to ensure removal of this shade structure.

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Details of Application Request	
Site Area	
Net Acres	0.15

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Residential, Single Family, Detached	MXU (Mixed Use)	R-1 (Single Family Residential)
North	Residential, Single Family, Detached	MXU (Mixed Use)	R-1 (Single Family Residential)
South	Residential, Single Family, Detached	MXU (Mixed Use)	R-1 (Single Family Residential)
East	Fraternal Organization	MXU (Mixed Use)	C-V (Civic)
West	Residential, Single Family, Detached	MXU (Mixed Use)	R-1 (Single Family Residential)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Downtown Las Vegas	N
Vision 2045 Downtown Las Vegas Master Plan: Cashman District	N
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District – 200 Feet	Y
DTLV-O (Downtown Las Vegas Overlay) District - Area 2	N
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area - Area 1	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to Appendix F Interim Downtown Las Vegas Development Standards – Area 2 and Title 19.06, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	6,534 SF	Y
Min. Setbacks – Residential Accessory Structure [Detached Carport] <ul style="list-style-type: none"> • Side 	3 Feet	0 Feet	N*
Min. Separation from Main Building – Residential Accessory Structure [Detached Carport]	6 Feet	0 Feet	N*
Size and Coverage – Residential Accessory Structure [Detached Carport]	Not to exceed 50% of the floor area of the principal dwelling unit	61%	N*
Area 2 – Specific Wall and Fence Standards Max. Height	5 Feet for any wall/fence erected between the front property line and the primary structure	7 Feet	N*
Building Placement – Min. Front Yard Setback	20 Feet	3 Feet	N*

*A Waiver (24-0250-WVR1) is requested to allow an existing seven-foot tall fence erected between the front property line and the primary structure where five feet is the maximum allowed; to allow a zero-foot side yard setback where three feet is required, a zero-foot separation from the primary dwelling where six feet is required, to not be aesthetically compatible with the principal dwelling unit where such is required, and to extend into the front yard setback area where such is not allowed for an existing Residential Accessory Structure [Detached Carport]; and a total accessory structure size of 61 percent of the principal dwelling floor area where 50 percent is the maximum allowed.