



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**PLANNING COMMISSION MEETING DATE: MARCH 12, 2024**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT/OWNER: RITA LAGUNA**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>24-0042-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

**\*\* NOTIFICATION \*\***

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 14

**NOTICES MAILED** 277

**PROTESTS** 0

**APPROVALS** 0

**\*\* CONDITIONS \*\***

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**24-0042-VAR1 CONDITIONS**

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**Planning**

1. A Variance is hereby approved to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Carport].
2. A Variance is hereby approved to allow a Residential Accessory Structure [Carport] to be located within the front yard setback where such is not allowed.
3. A Variance is hereby approved to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure.
4. A Variance is hereby approved to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure.
5. 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.
6. 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.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
8. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a Variance request for two existing Residential Accessory Structures that do not meet Title 19 requirements at 2400 Howard Drive.

**ISSUES**

- The requested Variance is the result of a Code Enforcement Case (CE23-02519). The case remains open pending the result of this Variance application.
- A Variance (24-0042-VAR1) is requested to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Carport]. Staff does not support the request.
- A Variance (24-0042-VAR1) is requested to allow a Residential Accessory Structure [Carport] to be located within the front yard setback where such is not allowed. Staff does not support the request.
- A Variance (24-0042-VAR1) is requested to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure. Staff does not support the request.
- A Variance (24-0042-VAR1) is requested to allow a zero-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure. Staff does not support the request.

**ANALYSIS**

A Code Enforcement Case (CE23-02519) has been ongoing since May 2023 citing code violations for an unpermitted Residential Accessory Structure [Carport] at the subject property. The case remains unresolved, pending the result of this Variance (24-0042-VAR1) request in order to obtain all required building permits. During review of the subject site, the Department of Community Development then found another Residential Accessory Structure that does not meet Title 19 and does not have a building permit.

The subject site is zoned R-1 (Single Family Residential) and is subject to Title 19 development standards. The purpose of the R-1 District is to provide for the development of single family detached dwellings in a suburban setting. The subject property is developed with a single-family detached dwelling and is located in a residential neighborhood. The applicant has constructed two Residential Accessory Structures, without permits, that both fail to comply with Title 19 development standards. According to the submitted justification letter, one Residential Accessory Structure is used as a carport, and the other is used for providing shade to the owner's pets.

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The submitted plans depict an existing Residential Accessory Structure [Carport] located in the front yard area with a zero-foot separation from the primary dwelling. Per Title 19.06, Accessory Structures must have a six-foot separation from the primary dwelling. The submitted plans also show a Residential Accessory Structure that is used for providing shade to the owner's pets with a zero-foot side setback where three feet is required, and a zero-foot separation from the primary dwelling where six feet is required. Due to Title 19 requirements not being met, the applicant is requesting a Variance (24-0042-VAR1) to allow the existing Residential Accessory Structures to remain as is. OpenWeb aerials show that the carport and other Accessory Structure were built sometime between Summer 2021 through the most current flight.

There is no hardship related to the site's physical characteristics that would warrant deviation from Title 19 requirements. Staff therefore recommends denial of the Variance, with conditions if approved.

**FINDINGS (24-0042-VAR1)**

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.16.140(L) states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing unpermitted and noncompliant structures. The removal or replacement and redesign of the structures would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
05/02/23	A Code Enforcement case (CE23-02519) was processed for an unpermitted carport at 2400 Howard Drive. The case is open and pending the result of this Variance case (24-0042-VAR1).

<b><i>Most Recent Change of Ownership</i></b>	
01/20/17	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
There are no related Building permits/Business Licenses.	

<b><i>Pre-Application Meeting</i></b>	
01/16/24	A pre-application meeting was held with the applicant to review the submittal requirements for a Variance request.

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

<b><i>Field Check</i></b>	
01/30/24	Staff conducted a routine field check in which the subject site was observed to have a carport and residential accessory structure east of the home. No other issues were noted.

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<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.14

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

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
Las Vegas 2050 Master Plan Area: Downtown South	Y
<b>Special Area and Overlay Districts</b>	<b>Compliance</b>
No Applicable Special Area or Overlay Districts	N/A
<b>Other Plans or Special Requirements</b>	<b>Compliance</b>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

## **DEVELOPMENT STANDARDS**

**Pursuant to 19.06, the following standards apply:**

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Setbacks - Residential Accessory Structures <ul style="list-style-type: none"> <li>Front (Carport)</li> <li>Side (Structure used for pet shade)</li> </ul>	20 Feet 3 Feet	0 Feet 0 Feet	N* N*
Min. Separation from Main Building <ul style="list-style-type: none"> <li>Carport</li> <li>Structure used for pet shade</li> </ul>	6 Feet 6 Feet	0 Feet 0 Feet	N* N*

*\*A Variance (24-0042-VAR1) is requested to allow existing Residential Accessory Structures to not meet Title 19 setback and separation requirements.*