



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**PLANNING COMMISSION MEETING DATE: MAY 14, 2024**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: RENE GOMEZ – OWNER: RENE GOMEZ AND AILEEN GOMEZ**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>24-0120-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

7

**NOTICES MAILED**                      299

**PROTESTS**                                      0

**APPROVALS**                                      0

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

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**24-0120-VAR1 CONDITIONS**

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**Planning**

1. A Variance (24-0120-VAR1) is hereby approved, to allow a zero-foot side yard setback where five feet is required and a zero-foot rear yard setback where five feet is required for an existing Patio Cover.
2. A Variance (24-0120-VAR1) is hereby approved, to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Shed 1].
3. A Variance (24-0120-VAR1) is hereby approved, to allow a two-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Shed 2].
4. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. Residential Accessory Structures [Shed 1 and Shed 2] shall be made aesthetically compatible with the primary dwelling unit.
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.

**Staff Report Page One**  
**May 14, 2024 - Planning Commission Meeting**

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

**PROJECT DESCRIPTION**

The applicant is requesting to maintain a Patio Cover and Residential Accessory Structures that do not comply with Title 19 development standards for setbacks at 1909 Cedarview Circle.

**ISSUES**

- A Variance (24-0120-VAR1) is requested, to allow a zero-foot side yard setback where five feet is required and a zero-foot rear yard setback where three feet is required for an existing Patio Cover. Staff does not support this request.
- A Variance (24-0120-VAR1) is requested, to allow a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Shed 1]. Staff does not support this request.
- A Variance (24-0120-VAR1) is requested, to allow a two-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Shed 2]. Staff does not support this request.
- A Code Enforcement Case (#CE23-07947) is open citing an unpermitted addition that doesn't meet Title 19 requirements. The case remains open, pending the results of this Variance request (24-0120-VAR1).

**ANALYSIS**

The applicant has constructed a Patio Cover and multiple Residential Accessory Structures [Shed 1 and Shed 2] within the R-PD5 (Residential Planned Development – 5 Units per Acre) zoning district, which is subject to a previously approved Reclassification of Property [Z-0067-72(2)]. The subject property is surrounded by single-family residences on each side of the property. As development standards for patio covers and accessory structures are not addressed or provided for specifically in the approved development plan, Title 19.10.050 stipulates that the Director of Community Development may apply development standards of an analogous zoning district. As the subject property has a lot size of 13,068 square feet and lot width of 136 feet, the R-1 (Single Family Residential) development standards are applicable in this instance.

**Staff Report Page Two**  
**May 14, 2024 - Planning Commission Meeting**

Per the submitted justification letter, the applicant built these unpermitted structures to avoid sun exposure and to provide space for recreational activities. No evidence of a unique or extraordinary circumstance related to the physical characteristics of the property has been presented to warrant the requested Variance. As such, the hardship is self-imposed and preferential in nature and therefore, Staff recommends denial of this Variance (24-0120-VAR1) request. If approved, it will be subject to conditions.

**FINDINGS (24-0120-VAR1)**

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

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

Additionally, Title 19.16.140(L) states:

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

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing a Patio Cover and multiple Residential Accessory Structures [Shed 1 and Shed 2] without permits and within required setbacks. 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.

**Staff Report Page Three**  
**May 14, 2024 - Planning Commission Meeting**

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
05/09/21	The City Council approved a General Plan Amendment (21-0029-GPA1) to adopt the City of Las Vegas 2050 Master Plan and amend the City of Las Vegas General Plan from various categories to TOD-1 (Transit Oriented Development -1), TOD-2 (Transit Oriented Development -2), TOC-1 (Transit Oriented Corridor -1), TOC-2 (Transit Oriented Corridor -2), or NMXU (Neighborhood Center Mixed Use) within the City of Las Vegas.
11/02/23	A Code Enforcement case (CE23-07947) was opened citing an unpermitted addition. The case remains open, pending the results of this Variance (24-0120-VAR1).

<b><i>Most Recent Change of Ownership</i></b>	
09/03/21	A deed was recorded for a change in ownership.

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

<b><i>Pre-Application Meeting</i></b>	
02/29/24	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Variance.

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

<b><i>Field Check</i></b>	
04/03/24	A routine field check was conducted by staff and observed an existing single-family dwelling. Nothing of concern was noted.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.30

**Staff Report Page Four**  
**May 14, 2024 - Planning Commission Meeting**

<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
Subject Property	Residential, Single Family, Detached	L (Low Density Residential)	R-PD5 (Residential Planned Development – 5 Units per Acre)
North	Residential, Single Family, Detached	L (Low Density Residential)	R-PD5 (Residential Planned Development – 5 Units per Acre)
South	Residential, Single Family, Detached	L (Low Density Residential)	R-PD5 (Residential Planned Development – 5 Units per Acre)
East	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<b><i>Master and Neighborhood Plan Areas</i></b>	<b><i>Compliance</i></b>
Las Vegas 2050 Master Plan Area: Charleston	N/A
<b><i>Special Area and Overlay Districts</i></b>	<b><i>Compliance</i></b>
No Applicable Special Area or Overlay Districts	N/A
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></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 Title 19.06, the following standards apply,***

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Lot Size	6,500 SF	13,068 SF	Y
Min. Lot Width	60 Feet	136 Feet	Y
Min. Setbacks (Patio Cover)			
• Side	5 Feet	0 Feet	N*
• Rear	5 Feet	0 Feet	N*

**Staff Report Page Five**  
**May 14, 2024 - Planning Commission Meeting**

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Setbacks (Shed 1) <ul style="list-style-type: none"> <li>• Side</li> <li>• Rear</li> </ul>	3 Feet 3 Feet	0 Feet 19 Feet	N* Y
Min. Setbacks (Shed 2) <ul style="list-style-type: none"> <li>• Side</li> <li>• Rear</li> </ul>	3 Feet 3 Feet	4 Feet 2 Feet	Y N*
Min. Distance Between Buildings (Shed 1)	6 Feet	10 Feet	Y
Min. Distance Between Buildings (Shed 2)	6 Feet	14 Feet	Y
Max. Lot Coverage	50%	19%	Y
Max Accessory Structure Size and Coverage	Not to exceed 50% of the floor area of the principal dwelling unit	20%	Y
Max Lot Coverage (Rear Yard Area)	50%	7%	Y
Max. Building Height (Patio Cover)	12 Feet	11 Feet	Y
Max. Building Height (Shed 1 and 2)	Not to exceed 2 stores, 35 feet in height or the height of the principal dwelling unit	8 Feet	Y

\*A Variance (24-0120-VAR1) is requested to allow a zero-foot side yard setback where five feet is required for an existing Patio Cover; a zero-foot rear yard setback where five feet is required for an existing Patio Cover; a zero-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Shed 1]; and to allow a two-foot rear yard setback where three feet is required for an existing Residential Accessory Structure [Shed 2].