



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

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

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: ALEX AQUINO - OWNER: ALEX HERNANDEZ-AQUINO AND GLADIS HERNANDEZ**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>24-0002-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      24

**NOTICES MAILED**                      105

**PROTESTS**                      0

**APPROVALS**                      0

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

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**24-0002-VAR1 CONDITIONS**

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**Planning**

1. A Variance (24-0002-VAR1) is hereby approved, to allow a seven-foot corner side yard setback where 15 feet is required for an existing Patio Cover.
2. A Variance (24-0002-VAR1) is hereby approved, to allow an existing Patio Cover to extend into the required 50-foot front yard setback by 29 feet where such is not allowed.
3. A Variance (24-0002-VAR1) is hereby approved, to allow a 12-foot corner side yard setback where 15 feet is required for an existing Residential Accessory Structure [Shed].
4. A Variance (24-0002-VAR1) is hereby approved, to allow an existing Residential Accessory Structure [Carport] to not be aesthetically compatible with the primary dwelling where such is required.
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.

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

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

**PROJECT DESCRIPTION**

This is a Variance request to allow a Patio Cover, Residential Accessory Structure [Shed], and Residential Accessory Structure [Carport] that do not meet Title 19 development standards at 2740 Harris Avenue.

**ISSUES**

- A Variance (24-0002-VAR1) is requested to allow a seven-foot corner side yard setback where 15 feet is required for an existing Patio Cover and to allow an existing Patio Cover to extend into the required 50-foot front yard setback by 29 feet where such is not allowed. Staff does not support this request.
- A Variance (24-0002-VAR1) is requested, to allow a 12-foot corner side yard setback where 15 feet is required for an existing Residential Accessory Structure [Shed]. Staff does not support this request.
- A Variance (24-0002-VAR1) is requested, to allow an existing Residential Accessory Structure [Carport] to not be aesthetically compatible with the primary dwelling where such is required. Staff does not support this request.
- A Code Enforcement case (CE-03441) is open citing multiple, unpermitted structures and patio cover on the subject property. The case remains open, pending the results of this Variance (24-0002-VAR1) request.

**ANALYSIS**

The subject site is zoned R-E (Residence Estates), and is subject to Title 19 development standards. The subject site is currently developed as an existing single-family residence with an unpermitted patio cover and Residential Accessory Structure. Pursuant to Title 19.06.070, patio covers shall have a 15-foot corner side yard setback. The applicant proposes to maintain a seven-foot corner side yard setback. Additionally, patio covers are not allowed to encroach upon the established 50-foot front yard setback. The applicant proposes to maintain a 29-foot front yard setback. Title 19.06.070 also stipulates that Residential Accessory Structures shall maintain a 15-foot corner side yard setback. The applicant proposes to maintain a 12-foot corner side yard setback.

The subject property is also developed with an existing Residential Accessory Structure [Carport]. Pursuant to Title 19.06.040, residential accessory structures shall be designed to be aesthetically compatible with the primary dwelling unit. As proposed, the submitted elevations depict a 15-foot tall carport constructed of sheet metal, which is not aesthetically compatible with the frame-stucco primary dwelling.

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

The applicant has provided no justification relating to the physical characteristics of the property to warrant the requested Variance. Therefore, staff finds the hardship to be self-imposed and preferential in nature. Therefore, staff recommends denial of this Variance (23-0457-VAR1). If approved, it will be subject to conditions.

**FINDINGS (24-0002-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 Residential Accessory Structures [Shed] and [Carport] without permits and that fail to meet 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.

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.

<b><i>Most Recent Change of Ownership</i></b>	
12/31/20	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
01/10/23	A Building Permit (R23-00439) was submitted for a 1761 square-foot patio cover. The Building Permit is waiting for resubmittal pending the approval of this Variance application.
02/23/23	A Building Permit (R23-02022) was submitted for a 50 LF wrought iron fence and 50 LF wrought iron fence with cmu block wall. The Building Permit is waiting for resubmittal pending the approval of this Variance application.
11/09/23	A Building Permit (R23-18218) was submitted for the installation of a prefabricated metal carport. The Building Permit is waiting for resubmittal.

<b><i>Pre-Application Meeting</i></b>	
01/02/24	A pre-application was held with the applicant where the submittal requirements for a Variance were discussed.

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

<b><i>Field Check</i></b>	
04/02/24	Staff conducted a routine field check of the subject site and observed an existing single-family dwelling and patio cover. Nothing of concern was noted.

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

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

<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	TOD-2 (Transit Oriented Development – Low)	R-E (Residence Estates)
North	Public or Private School, Primary	PF (Public Facility)	C-V (Civic)
South	Residential, Single Family, Detached	TOD-2 (Transit Oriented Development – Low)	R-E (Residence Estates)
East	Residential, Single Family, Detached	TOD-2 (Transit Oriented Development – Low)	R-E (Residence Estates)
West	Undeveloped	TOD-2 (Transit Oriented Development – Low)	R-4 (High Density Residential)

<b><i>Master and Neighborhood Plan Areas</i></b>	<b><i>Compliance</i></b>
Las Vegas 2050 Master Plan Area: East Las Vegas	Y
<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

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

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.06.060, the following standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	18,000 SF	13,068 SF	Y**
Min. Lot Width	100 Feet	105 Feet	Y
Min. Setbacks [Patio Cover]			
• Front	50 Feet	29 Feet	N*
• Side	10 Feet	45 Feet	Y
• Corner	15 Feet	7 Feet	N*
• Rear	15 Feet	70 Feet	Y
Min. Setbacks [Shed]			
• Side	5 Feet	73 Feet	Y
• Corner	15 Feet	12 Feet	N*
• Rear	5 Feet	24 Feet	Y
Min. Distance Between Buildings	6 Feet	31 Feet	Y
Max. Lot Coverage	N/A	16%	N/A
Max. Building Height [Patio Cover]	12 Feet	8 Feet	Y
Max. Building Height [Shed]	Not to exceed height of principal dwelling unit (14 Feet)	12 feet	Y

\*A Variance (24-0002-VAR1) is requested, to allow a seven-foot corner side yard setback where 15 feet is required for an existing patio cover; an existing patio cover to extend into the front yard setback area where such is not allowed; a 12-foot corner side yard setback where 15 feet is required for an existing Residential Accessory Structure [Shed]; and to allow an existing Residential Accessory Structure [Carport] to not be aesthetically compatible with the primary dwelling where such is required.

\*\*Non-conforming with respect to lot size.