



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: APRIL 11, 2023

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: SALVADOR MUNOZ

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0062-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 35

NOTICES MAILED 324

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

23-0062-VAR1 CONDITIONS

Planning

1. 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.
2. 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.
3. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

5. Submit a License Agreement for the wall in the 16th Street public right-of-way, prior to the issuance of permits for these improvements. If requested by the City, the applicant shall remove private 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 Building and Safety (702-229-4836).

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow relief from required building setbacks for an existing Accessory Structure (Class II) [casita] and an existing Patio Structure [carport], and to allow a five-foot tall screen wall in the front yard of a residentially zoned property where walls and fences are limited to five feet in height with a maximum of a two-foot solid base for an existing fence at 431 South 16th Street.

ISSUES

- A building permit inspection of the front property line fence (#21-03854) was failed due to the cinder block walls along the side property boundaries, which were built without a permit and which do not meet Title 19 requirement; and,
- The existing Accessory Structure (Class II) [casita] and Patio Structure [carport] do not have an active building permit submitted.

ANALYSIS

The subject property is a Single Family, Detached residence and is zoned R-1 (Single Family Residential). Under the City of Las Vegas 2050 Master Plan, this property is within the Downtown Las Vegas planning area and is assigned the General Plan Land Use Designation L (Low Density Residential). The General Plan designation and zoning are consistent with the existing land use.

In the R-1 (Single Family Residential) zone, accessory structures and appurtenances, such as fences and walls, are subject to the regulations under Title 19. The applicant has constructed a fence in their front yard setback area that does not meet the front yard fence standards as required by Title 19.06.070. Further, the applicant has constructed a Patio Cover [carport] and Accessory Structure (Class II) [casita] that encroach into the minimum setback areas as required by Title 19.06.070.

Under Title 19.06, residential fences and walls within the front setback area are restricted to five feet in height with a maximum of a two-foot solid base. Solid walls are prohibited in the front yard area. In the front yard area, walls and fences may be constructed up to five feet as long as three feet consist of wrought iron or other material in which the interior of the property can be seen. The applicant has constructed a fence in their front yard setback area that is five-foot tall, solid block, where walls and fences are limited to five feet in height with a maximum of a two-foot solid base. In addition, the wall was constructed on public right-of-way and staff has added a condition of approval for the

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applicant to obtain a license agreement for the encroachment in addition to a building permit if approved. The proposed Variance would allow a solid front yard wall height that is 250-percent the maximum allowed solid front yard wall.

In the R-1 (Single Family Residential) zone, the main building and attached front yard patio structure (carport) have a 20-foot front yard setback and a five-foot side yard setback required. The carport was constructed encroaching into that front and side setback. The existing carport has a 16-foot front yard setback. The requested Variance would provide 80-percent of the required front yard setback. Similarly, the car port provides four feet of side yard setback, providing 80-percent of the required side yard setback.

In the R-1 (Single Family Residential) zone, an Accessory Structure is required to provide a three-foot side and rear yard setback. With a zero-foot rear yard setback and two-foot side yard setback, the proposed Variance would provide two-thirds of the required side yard setback, and no portion of the required rear yard setback for the Accessory Structure [casita].

No evidence of 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 therefore, staff recommends denial of this request. If approved, it will be subject to conditions.

FINDINGS (23-0062-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 two structures within the required side and rear yard setbacks, constructing a five-foot tall solid walls along a portion of the front yard where five feet with a maximum two-foot solid base is allowed, and constructing the wall within the public right-of-way. Removing the solid wall and relocating the encroaching structures outside of required setback areas, 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.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
09/15/20	A Code Enforcement case (#CE20-05040) was processed in for trash in the yard at 431 South 16 th Street. This case was resolved 3/22/21.
04/21/21	A building permit (#R21-03854) was issued for the fence along the front property line at 431 South 16 th Street. This permit has not been finalized and was extended on 09/28/21, 03/22/22, 09/13/22, and 02/27/23.

<i>Field Check</i>	
03/01/23	During a regular site visit, staff observed the existing five foot solid block fence within the front yard area and photographed the carport and rear yard casita.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.14

<i>Most Recent Change of Ownership</i>	
12/14/20	A deed was recorded for a change in ownership.

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Fire Station	PF (Public Facility)	C-V (Civic)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Downtown Las Vegas	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
DTLV-O (Downtown Las Vegas Overlay) District – Area 2	Y

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<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area – Area 1	Y
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:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Front Yard Wall/Fence Height			
• Total	5 Feet	5 Feet	Y
• Solid	2 Feet	5 Feet	N*

*A Variance is requested to allow an existing five-foot solid block wall within the front yard setback where walls and fences are limited to five feet in height with a maximum of a two-foot solid base

Pursuant to Title 19.06, the following standards apply:

<i>Standard [CARPORT]</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front	20 Feet	16 Feet	N*
• Side	5 Feet	4 Feet	N*
Max. Building Height	35 Feet	8' 9" Feet	Y

*A Variance is requested to allow an existing Patio Structure [carport] with a 16-foot setback where 20 feet is required, and with a four-foot side yard setback where five is required.

<i>Standard [CASITA]</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Side	3 Feet	2 Feet	N*
• Rear	3 Feet	0 Feet	N*
Min. Distance Between Buildings	6 Feet	19 Feet	Y
Max. Building Height	35 Feet	8' 10" Feet	Y

*A Variance is requested to allow an existing Accessory Structure (Class II) [casita] with a zero-foot rear yard setback where three is required, and with a two-foot side yard setback where three is required.