

Carolyn G. Goodman, Mayor (At-Large)  
Brian Knudsen, Mayor Pro Tem (Ward 1)  
Victoria Seaman (Ward 2)  
Olivia Díaz (Ward 3)  
Francis Allen-Palenske (Ward 4)  
Cedric Crear (Ward 5)  
Nancy E. Brune (Ward 6)



City Manager Jorge Cervantes  
City Attorney Bryan K. Scott  
City Clerk LuAnn D. Holmes

## City Council Agenda

Council Chambers · 495 South Main Street · Phone 702-229-6011  
City of Las Vegas Internet Address: [www.lasvegasnevada.gov](http://www.lasvegasnevada.gov)

**April 19, 2023**  
**9:00 AM**

53. 23-0157-DIR1 - DIRECTOR'S BUSINESS - PUBLIC HEARING - APPLICANT: ZELZAH SHRINE TEMPLE INC. - For possible action on an Appeal of a Director's decision regarding the interpretation of outdoor storage and shipping containers located on the north side of Sahara Avenue, approximately 365 feet east of Eastern Avenue (APN 162-01-401-004), C-1 (Limited Commercial) Zone, Ward 3 (Diaz). Staff recommends DENIAL.

### Minutes:

MAYOR GOODMAN declared the Public Hearing open.

SETH FLOYD, Director of Community Development, introduced himself, noting the appellant was not present. DEPUTY CITY ATTORNEY JIM LEWIS stated that because the item was an appeal of the decision made by the Director, the item could be abeyed or could be heard. He opined that the item be heard so it is on the record in case the decision is challenged at a later date. He explained that the City's code allows an applicant to appeal the decision of an administrative officer that is made in the course of administering the code when that applicant disagrees with an interpretation made by the Planning Department [sic]. In this situation, the applicant disagreed with the decision rendered by MR. FLOYD. He requested to hear the staff report first and then allow the appellant to make their case to the Council. MR. LEWIS stated there were two options once the item is heard: 1) A motion to deny the appeal of the applicant, which acts to uphold MR. FLOYD'S decision; and 2) A motion to approve the appeal, which would overturn the Director's decision. He noted that action at this meeting was to approve or reject the Director's determination, specifying that this was not a land use entitlement hearing. The typical land use process will follow whatever is decided by the Council. He offered to explain the practical effect of a Council decision either way.

COUNCILMAN KNUDSEN inquired about precedence being set, to which MR. LEWIS said in some cases, the matter could set a general precedence, and in some situations, it could set a precedent based only upon the facts before the Council. The Councilman wondered if the code would need to be updated if it is being interpreted differently. MR. LEWIS thought this would be a good conversation to have with the Director because this situation was very fact specific. MR. FLOYD replied probably not because whether this was a legal use when it was established or not, the code has since changed.

Through a PowerPoint presentation, a copy of which was submitted and attached as backup, MR. FLOYD explained that the appeal was initiated by the appellant having shipping containers, or outdoor storage, present on the site, which is located along Sahara Avenue. He shared several historical aerial photos of when the shipping containers were placed on the site. He noted in the spring of 2013, there were no shipping containers on the site. In the spring of 2014, two shipping containers appeared on the site. MR. FLOYD showed updated photos from the summer of 2021 and currently, both of which show the shipping containers on the site. He reviewed the history of the shipping containers, reiterating that they were placed on the site sometime between 2013 and 2014. In 2022, Code Enforcement opened a case for unpermitted outdoor storage, because the shipping containers were not authorized to be on the site. In July 2022, the Council approved a request to rezone the site from R-1 (Single Family Residential) and R-2 (Medium-Low Density Residential) to the entire site

being C-1 (Limited Commercial). In October 2022, a formal application for a car wash was submitted to the Department of Community Development, and in November 2022, Code Enforcement issued a correction notice to the owner to remove the outdoor storage from the site. In March 2023, staff confirmed with the owner that the use was outdoor storage. He pointed out that the appeal was included in the backup, and within it, the appellant laid out several arguments.

MR. FLOYD indicated that outdoor storage is defined in Title 19.12 and emphasized what he believed to be the most important part of the definition, which states that "...This use includes the storage of self-contained cargo containers that have not been converted into a permanent build..." He referenced Ordinance 6210, a copy of which was submitted for the record, stating that the appellant argued that outdoor storage was not defined until 2018; however, MR. FLOYD pointed out that outdoor storage was defined in the Ordinance in 2012, which he read from. Section 47 of the Ordinance also defines outdoor storage as a permitted use in certain zoning districts, which are C-M (Commercial/Industrial), M (Industrial), and C-2 (General Commercial) but not permitted in C-1. Additionally, the appellant argued that by custom, these shipping containers were allowed; however, MR. FLOYD did not think a custom could be relied upon when there is a zoning code, and the use was not permitted because it was not included in the permitted use tables as of 2013.

MR. FLOYD reviewed other important provisions by first stating that there was a suggestion that the shipping containers are permanent structures; however, he stated a building permit must be issued for a structure to be considered permanent, and building permits were never issued. In addition, structures over 200 square feet require a building permit, and these are approximately 320 square feet.

He reiterated that at the time the shipping containers were added in 2013, the site was zoned R-1, and at that time, the code read "No accessory structures shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building." He pointed out this site was and is a vacant lot, so there was no main building for the outdoor storage to be an accessory of.

Finally, MR. FLOYD stated that the primary argument of the appellant is that if it is believed that the shipping containers were allowed in 2013, then they are now non-conforming uses. He noted that non-conforming uses must have been legal when they were established. When these shipping containers were added to the site, they were not allowed in R-1 and would not have been allowed in C-1; therefore, they were never established or could have been established as legal non-conforming uses. Another argument by the appellant is that outdoor storage should be allowed because it was not addressed sooner. MR. FLOYD stated that staff is not aware of everything all of the time and read from the code, noting that staff is obligated to address code violations.

He summarized his report by stating that the shipping containers are considered outdoor storage, and at the time they were placed on the site, the zoning was R-1, which did not allow it. The outdoor storage was never legally established on the site under Title 19 at that time nor under the current code. The site is now zoned C-1, where it is still not permitted; therefore, staff requested the Council deny the appeal. He shared several images of the shipping containers and informed the Mayor that there is an open Code Enforcement case that has been paused. If the Council were to move to deny the appeal, they could set a timeline for removal, otherwise, staff will restart the Code Enforcement case.

MR. LEWIS said the City Attorney's Office believed the Director's decision was lawful, reasonable, and enforceable. He added that on April 6, DENNIS RUSK was sent a notification of this hearing, and the City has complied with its legal obligation to the applicant. MR. RUSK chose not to attend; therefore, the City can move forward in a legal fashion and make a decision.

Subsequent to the vote, MR. FLOYD said a question arose regarding street vending, and he wished to let the Mayor know that those are not permitted in the city under the current code.

MAYOR GOODMAN declared the Public Hearing closed.

Motion made by Olivia Diaz to Deny and allowing 90 days to remedy the Code Enforcement violation

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

For-Nancy Brune, Victoria Seaman, Cedric Crear, Carolyn Goodman, Brian Knudsen, Olivia Diaz, Francis Allen-Palenske;