

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 Mike Janssen
City Attorney Jeff Dorocak
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

October 16, 2024
9:00 AM

52. 24-0275-VAR1 - VARIANCE - PUBLIC HEARING - APPLICANT: ICON POWER - OWNER: MARICELA PALACIOS - For possible action on a Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive (APN 139-28-301-015), R-E (Residence Estates) Zone, Ward 5 (Crear). The Planning Commission (7-0 vote) and Staff recommend DENIAL.

Motion made by Brian Knudsen to Hold in Abeyance Items 29, 52, and 53 to 11/6/2024, Strike as Recommended by the Recommending Committee Items 32 and 33, and Withdraw without Prejudice Item 51

Passed For: 5; Against: 0; Abstain: 0; Did Not Vote: 1; Excused: 1

For-Nancy Brune, Victoria Seaman, Carolyn Goodman, Brian Knudsen, Francis Allen-Palenske; Did Not Vote-Cedric Crear; Excused-Olivia Diaz;



AGENDA SUMMARY PAGE
City Council
Meeting of: October 16, 2024

Agenda Item No.:
52

DEPARTMENT: Community Development
DIRECTOR: Seth Floyd

DISCUSSION

SUBJECT:

24-0275-VAR1 - VARIANCE - PUBLIC HEARING - APPLICANT: ICON POWER - OWNER: MARICELA PALACIOS - For possible action on a Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive (APN 139-28-301-015), R-E (Residence Estates) Zone, Ward 5 (Crear). The Planning Commission (7-0 vote) and Staff recommend DENIAL.

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

City Council Meeting

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

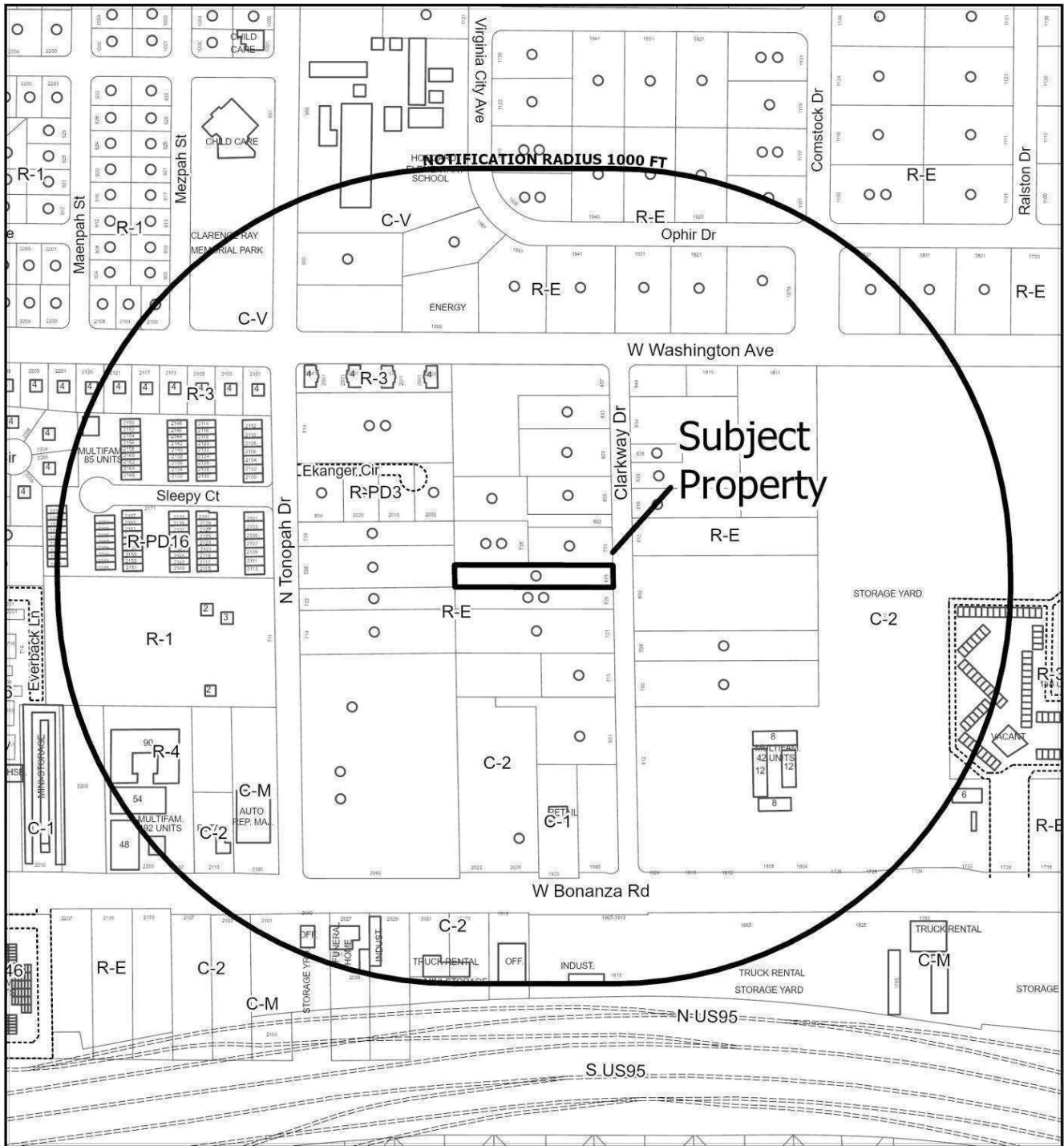
City Council Meeting

RECOMMENDATION:

The Planning Commission (7-0 vote) and Staff recommend DENIAL, if approved, subject to conditions.

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photo(s)
5. Justification Letter
6. Submitted after Final Agenda - Abeyance Request Letter by Brown, Brown, and Premsrut



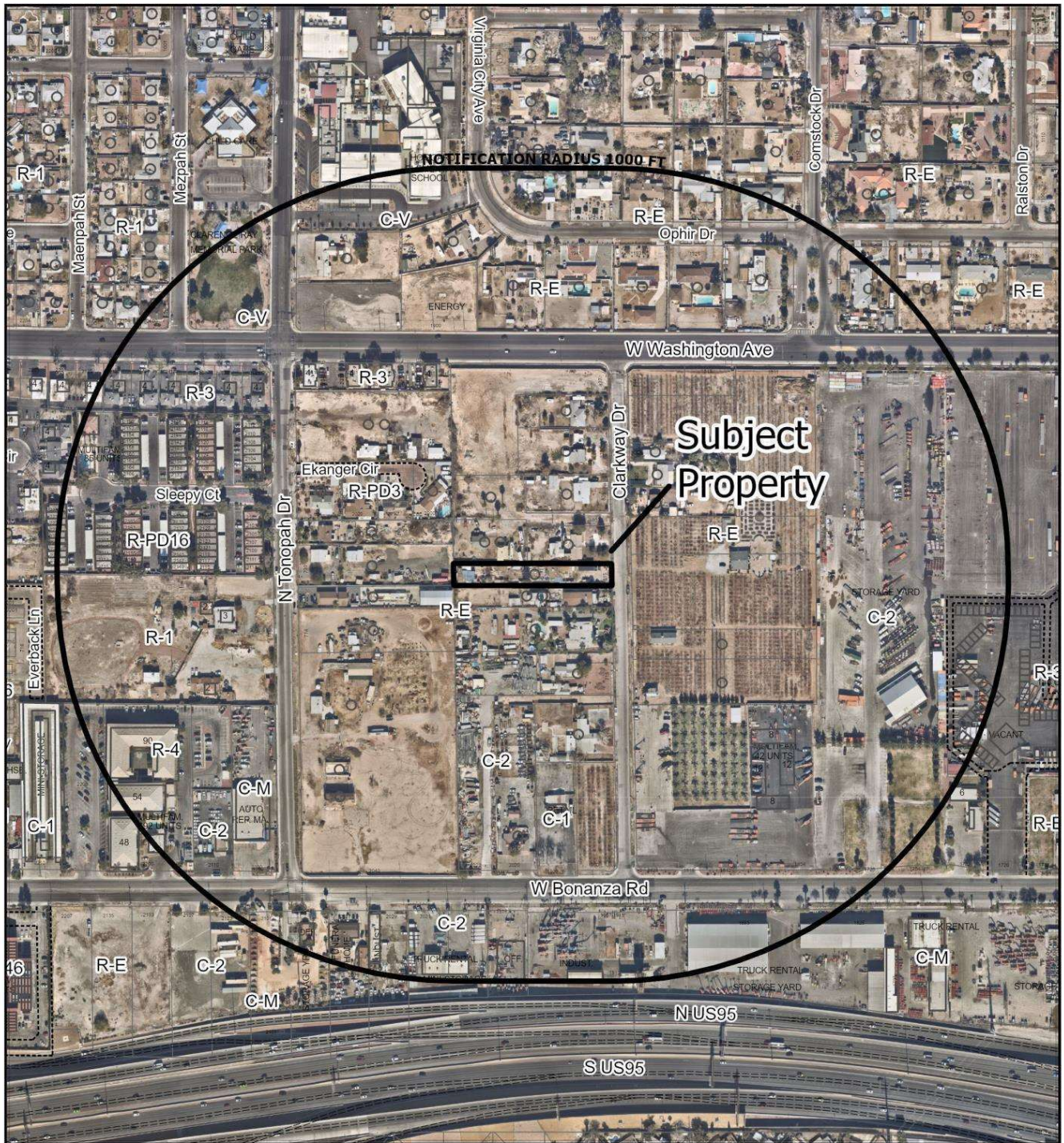
CASE: 24-0275-VAR1

RADIUS: 1000 FEET

ZONING OF SUBJECT PROPERTY: R-E (RESIDENCE ESTATES)

0 87.5175 350
Feet





CASE: 24-0275-VAR1

RADIUS: 1000 FEET

ZONING OF SUBJECT PROPERTY: R-E (RESIDENCE ESTATES)

0 87.5175 350
Feet





AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: OCTOBER 16, 2024

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: ICON POWER - OWNER: MARICELA PALACIOS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0275-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 319

PROTESTS N/A

APPROVALS N/A

**** CONDITIONS ****

24-0275-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed.
2. A Variance is hereby approved, to allow a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1].
3. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 1].
4. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2].
5. A Variance is hereby approved, to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4].
6. A Variance is hereby approved to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required.
7. 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.
8. 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.
9. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
10. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Staff Report Page One
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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Variance request for multiple existing Residential Accessory Structures that do not comply with Title 19 development standards at 815 Clarkway Drive.

ISSUES

- A Code Enforcement case (#CE23-06123) is open citing unpermitted structures and animals at the subject property. The case remains unresolved, pending the results of this Variance.
- A Variance is requested to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed. Staff does not support the request.
- A Variance is requested to allow a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 1]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2]. Staff does not support the request.
- A Variance is requested to allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4]. Staff does not support the request.
- A Variance is requested to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required. Staff does not support the request.
- Any Residential, Accessory Structures at the subject property that was not included in this Variance request shall meet Title 19 requirements or submit an application for a Variance.

ANALYSIS

The subject site is zoned R-E (Residence Estates) and is subject to Title 19 development standards. The applicant has constructed multiple Residential Accessory Structures [Shade Structure and Sheds] without permits that fail to comply with Title 19 requirements. A Code Enforcement case (#CE23-06123) has been ongoing since September 2023, citing unpermitted structures and animals on the subject property.

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This Variance request involves the existing shade structure located in front of the primary dwelling and sheds located in the rear yard area of the property and does not include all the structures and animals noted by the Code Enforcement violations. The applicant is required to continue working with Code Enforcement officers to bring the property into compliance.

Per the submitted plans, solar panels are installed on the roof of the shade structure located in front of the primary dwelling unit. A building permit (#R23-09258) was issued for solar panels at the subject property in June 2023, however a building permit was not issued for the shade structure. Additionally, the submitted site plan depicts four sheds in the rear yard area that do not meet Title 19.06 requirements. As such, the applicant is requesting a Variance to allow multiple existing Residential Accessory Structures [Shade structure and Sheds] to remain on the subject site as is.

The following table depicts the applicable development and design standards concerning Residential Accessory Structures with the requested deviations included in this Variance request:

<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
No accessory structure is permitted in front of the primary structure.	To allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure.	19.06.040	Denial
Five-foot side yard setback	To allow a two-foot side yard setback for an existing Residential Accessory Structure [Shed 1].	19.06.060	Denial
Five-foot side yard setback	To allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 2].	19.06.060	Denial
Five-foot side yard setback	To allow a two-foot side yard setback where five feet is required for a Residential Accessory Structure [Shed 4].	19.06.060	Denial
Five-foot rear yard setback	To allow a three-foot rear yard setback for an existing Residential Accessory Structure [Shed 1].	19.06.070	Denial

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<i>Requirement</i>	<i>Request</i>	<i>Applicable code section</i>	<i>Staff Recommendation</i>
Accessory Structures must be aesthetically compatible with the principal dwelling unit	To allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit.	19.06.040	Denial

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 therefore, staff recommends denial of this Variance request. If approved, it will be subject to conditions and building permits will need to be obtained.

FINDINGS (24-0275-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 multiple Residential Accessory Structures [Shade Structure and Sheds] without building permits that do not meet development standards. 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

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
09/06/23	A Code Enforcement case (#CE23-06123) was processed for an unpermitted structure located in the front yard area and animals at 815 Clarkway Drive. The case remains unresolved.
08/13/24	The Planning Commission voted (6-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive.
09/10/24	The Planning Commission voted (7-0) to recommend DENIAL on the following Land Use Entitlement project request TO ALLOW AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHADE STRUCTURE] TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR A RESIDENTIAL ACCESSORY STRUCTURE [SHED 1], A TWO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR RESIDENTIAL ACCESSORY STRUCTURES [SHEDS 1, 2 AND 4]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.50 acres at 815 Clarkway Drive.

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Most Recent Change of Ownership	
08/09/04	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
02/01/23	A building permit (#R22-05282) was issued for a building addition at 815 Clarkway Drive.
06/14/23	An over the counter permit (#R23-09258) was issued for a photovoltaic system at 815 Clarkway Drive.
03/13/24	A building permit (#R24-03608) was processed for a shade structure at 815 Clarkway Drive. A permit has not been issued.

Pre-Application Meeting	
05/20/24	A pre-application meeting was held with the applicant and the submittal requirements for a Variance request were discussed.

05/20/24	A pre-application meeting was held with the applicant and the submittal requirements for a Variance request were discussed.
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Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

A neighborhood meeting was not required, nor was one held.	
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Field Check	
07/03/24	Staff conducted a routine field check and observed an existing single-family dwelling with a shade structure located in the front of the property. Multiple vehicles were parked on-site. A Code Enforcement case (#CE23-06123) is active on the subject property.

07/03/24	Staff conducted a routine field check and observed an existing single-family dwelling with a shade structure located in the front of the property. Multiple vehicles were parked on-site. A Code Enforcement case (#CE23-06123) is active on the subject property.
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Details of Application Request	
Site Area	
Net Acres	0.50

Site Area	
Net Acres	0.50

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<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	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
North	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
South	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)
East	Community Garden	MXU (Mixed Use)	R-E (Residence Estates)
West	Residential, Single Family, Detached	MXU (Mixed Use)	R-E (Residence Estates)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: West Las Vegas	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District - 140 Feet	Y

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

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	18,000 SF	21,780 SF	Y
Min. Setbacks [Shed 1] <ul style="list-style-type: none"> Side (South) Rear (West) 	5 Feet 5 Feet	2 Feet 3 Feet	N* N*
Min. Setbacks [Shed 2] <ul style="list-style-type: none"> Side (North) 	5 Feet	2 Feet	N*
Min. Setbacks [Shed 3] <ul style="list-style-type: none"> Side (South) 	5 Feet	6 Feet	Y
Min. Setbacks [Shed 4] <ul style="list-style-type: none"> Side (North) 	5 Feet	2 Feet	N*
Min Setbacks [Shade Structure] <ul style="list-style-type: none"> Side (North) 	5 Feet	5 Feet	Y
Max. Building Height [Shade Structure]	14 Feet	14 Feet	Y

*A Variance is requested to allow an existing Residential Accessory Structure [Shade Structure] to be located in front of the primary structure where such is not allowed; a three-foot rear yard setback where five feet is required for a Residential Accessory Structure [Shed 1], a two-foot side yard setback where five feet is required for Residential Accessory Structures [Sheds 1, 2 and 4]; and to allow all Residential Accessory Structures to not be aesthetically compatible with the principal dwelling unit where such is required.



DEPARTMENT OF PLANNING

Application / Petition Form & Statement of Financial Interest

Department Use

Case #
Meeting Date
Total Fee
Received By/Date

Case Type (Special Use Permit, Rezoning, Variance, Site Development Plan Review, etc) Variance

Project Address (Location) 815 Clarkway Dr, Las Vegas Nevada 89106

Project Name Maricela Palacios Solar Canopy **Proposed Use** Shade structure with Solar install

Assessor's Parcel #(s) 13928301015 **Ward #** 5

General Plan: Existing ☒ Proposed _____ **Zoning:** Existing ☒ Proposed _____

Additional Information Solar Canopy project at the above address

Property Owner Maricela Palacios **Contact** Moises Murillo

Address 815 Clarkway Dr **City** Las Vegas **State** NV **Zip** 89106

E-mail murillo_moises@yahoo.com **Phone** 702-533-7430

Applicant Icon Power **Contact** Jonathan Malfabon

Address 3006 S Priest Dr **City** Tempe **State** AZ **Zip** 852821

E-mail jonathan.malfabon@iconpower.com **Phone** 520-800-9266

Representative Jonathan Malfabon **Contact** same as above

Address same as above **City** same as above **State** same **Zip** same

E-mail same as above **Phone** same as above

To the best of your knowledge, does the Mayor or any member of the City Council or Planning Commission have any financial interest in this or any other property with the property owner, applicant, the property owner or applicant's general or limited partners, or an officer of their corporation or limited liability company? ☐ Yes ☒ No

If yes, please indicate the member of the City Council or Planning Commission who is involved and list the name(s) of the person or persons with whom the City Official holds an interest. Also list the Assessor's Parcel Number if the property in which the interest is held is different from the case parcel.

City Official _____ **Partner(s)** _____

Partner(s) _____

- I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. I further certify that I am the owner or purchaser (or option holder) of the property involved in the application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature below.
- Application will not be deemed complete until the submitted materials have been reviewed by Department of Planning for consistency with the Zoning Ordinance.

Property Owner Signature [Signature]

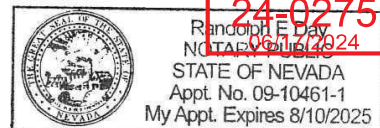
An authorized agent may sign in lieu of the property owner for Final Maps, Tentative Maps and Parcel Maps

Print Name Maricela Palacios

Subscribed and sworn before me

This 5th day of June, 2024

Notary Public in and for said County and State





24-0275
06/17/2024



**24-0275-VAR1 - APPLICANT: ICON POWER - OWNER: MARICELA PALACIOS
815 CLARKWAY DRIVE**

07/03/24



Jonathan.Malfabon@ICONPOWER.com

3006 S Priest Dr

Tempe, AZ 85282

4/30/2024

Maricela Palacios Solar Project
815 Clarkway Dr, Las Vegas Nevada, 89130

To whom it may concern,

I am writing to request approval to complete the construction of a solar canopy/carport at the address listed above. We initially submitted our permit application and received approval on June 17, 2023. At that time, we were not informed of any additional processes or requirements beyond those specified in our permit. However, during the final inspection in November 2023, other requirements were brought to our attention, which has caused significant delays and inconvenience for the homeowner.

We installed the carport with the understanding that all necessary approvals had been secured. This unexpected development has turned what was supposed to be a six-month project into a year-long ordeal. We are committed to complying with these stated requirements, although we believe we should have been notified earlier in the process or had our permit rejected if it was incomplete. This lack of communication has caused unnecessary hardship for both the homeowner and our team. Our goal is to obtain all the necessary approvals to close out this solar carport project as soon as possible to best serve our customer. We have been operating in Las Vegas, NV, for the past four years, consistently adhering to local requirements. We would not have proceeded with this installation had we known there were additional requirements to meet.

Since building this carport, the homeowner has been contacted by code enforcement, which is now calling out other structures on the property. These structures are impermanent, and can be moved as necessary. The homeowner actually removed one structure on the property and recently relocated another. They are not used for anything other than storage and shading. I've included their sizes and locations in the site plan, all are currently within 2'ft of the property line, but again,

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06/17/2024

these can be moved and we don't believe these should be considered structures for code enforcement.

While we are submitting this variance request, the anticipated timeline suggests it could take an additional four months to resolve this issue. If there are any steps we can take or any information we can provide to expedite this review process, please let us know.

Thank you for your understanding and prompt attention to this matter.

Sincerely,

Jonathan Malfabon

Jonathan.Malfabon@ICONPOWER.COM, 520-800-9266



24-0275
06/17/2024

LAW OFFICE

Brown, Brown & Premsrirut

JAY H. BROWN
DAVID T. BROWN
PUOY K. PREMSRIRUT

AN ASSOCIATION OF PROFESSIONAL CORPORATIONS
520 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101-6520

TELEPHONE (702) 384-5563
FACSIMILE (702) 385-1023
EMAIL: jbrown@brownlawlv.com

October 10, 2024

City of Las Vegas Planning and Zoning
495 Main Street
Las Vegas, Nevada 89101


**RE: October 16, 2024, City Council Meeting Holdover request for
agenda item # 52. 24-0275-VAR 1. Applicant: Icon Power**

Dear Ms. Eddowes and Ms. Serna,

Please be advised that this firm has been retained to represent the above-mentioned matter as it pertains to the combination shade structure with solar power generator. We respectfully request an abeyance to allow us to familiarize ourselves with Staff's summary and liaise with the Ward Five office. It is my understanding that this holdover request will not inconvenience surrounding stakeholders as there have not been cards mailed in protest nor have people appeared at previous hearings to voice opposition to the matter.

In summary, I kindly ask that 24-0275-VAR1 be held from the October 16, 2024 City Council Agenda and rescheduled to the November 6, 2024 City Council Agenda.

With appreciation,


Lora Dreja
Land Entitlements
(702) 598-1408

CC: Nora Lares, Agenda Technician, nlares@lasvegasnevada.gov
Emily Wetzstein, City Clerk, ewetzstein@lasvegasnevada.gov
Kelly Woods, Ward Five Office, kwoods@lasvegasnevada.gov
Jonathan Malfabon, Icon Power

Submitted after Final Agenda
Date 10/10/2024 Item 52