



## STAFF REPORT 11/6/2024

**TO:** Planning Commission Chair and Commissioners

**FROM:** Adrian Moreno, Associate Planner

**SUBJECT:** Variance No. 24-01 – Campos, Setback

**SPECIFICS:** Variance No. 24-01 is a request for a for five foot setback variance for an existing detached 263 SF patio structure constructed without a permit at 48552 Playa Del Amor Street. Applicant: Jesus Campos.

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### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. PC 2024-24 denying Variance (VAR) No. 24-01, a request for a five foot setback variance that allows for a 263 SF accessory patio structure to remain as existing at a five foot setback from the main structure at 48552 Playa Del Amor Street.

### **BACKGROUND:**

On July 20, 2021, the Code Enforcement Division opened a case on the unpermitted patio structure. At the time, the patio construction was mostly complete except for roof shingle installation. Code Enforcement requested that any work be discontinued and permit submission for the proposed work. On May 10, 2022, the property owner submitted a building permit and staff informed the applicant of the 10-foot distance Zoning Ordinance requirement between the accessory structure and main structure. The applicant received eleven citations, only some of which have been paid. On October 10<sup>th</sup>, the applicant met with city staff and the applicant submitted a variance application. See below history on the code enforcement case.



- July 2021 - Code case opens
- July 2021 - January 2022 (6 months) – 8 warning notices
- Jan. 2022 - May 2024 (17 months) – 11 citations
- May 2022 - Building permit application submitted

- Oct. 2024 - Variance application submitted

**DISCUSSION/ANALYSIS:**

The detached patio structure is a 21 ft x 12.5 ft structure, with a total 263 SF lot coverage. The subject parcel is 6,534 SF and the existing rear yard setback is 31 feet. The detached patio structure meets all Zoning Ordinance requirements as seen in Table 1 below, except for the minimum 10-foot setback requirement from other structures. The Zoning Ordinance Section 17.60.010 (F)(5) states that “except for side loaded garages, the wall planes or sides of an accessory structure must be a minimum of ten (10) feet from the sides or wall planes of any other structure, measured at right angles from the wall plane or sides of the accessory structure”.

**Table 1 – Property Development Standards**

<b>Municipal Code Requirements</b>		<b>Subject Patio</b>
Required Rear Yard Setback	5 foot minimum	5 foot setback
Required Side Yard Setback	5 foot minimum	5 foot setback
Height	15 feet maximum	11.5 feet height
Size	400 SF or 30% of size of main dwelling, whichever is greater. Maximum.	336 SF
Setback From Other Structures	10 feet minimum	5 foot setback
Rear Yard Lot Coverage	50% of rear yard, maximum	36%
Attached Patio Rear Yard Setback Requirements On Lots Under 7,200 SF	10 foot minimum	N/A, not attached.

**VARIANCE FINDINGS:**

The project does not meet the 5-foot setback requirement and the strict application of the code does not create an unnecessary hardship as the applicant could have constructed a patio that meets setback requirements. However, there is a special circumstance at the property where the east-west orientation of the home is inconsistent with general plan policy for energy conservation. The property is well constructed and aesthetically compatible to the neighborhood due to compatible tile roof. Fire had no concerns with the project and the attached building conditions would be required if the planning commission were to recommend approval of the variance.

The 10-foot setback requirement may have been established to reduce visual density, ensure open space in the rear yard, or for safety concerns. Staff finds that the reduced patio setback visually connects the patio to the main house reducing aesthetic impacts, open space in the rear yard is sufficiently protected by maximum rear yard lot coverage requirements, and building conditions for the project would ensure there would not be a safety concern with the approval of the variance.

Staff has determined that the project does not comply with Findings 1 and 3, however does comply with Findings 2, 4, and 5 of the criteria and requirements required by Section 17.76.020(B) to make the determination to grant a variance. Findings:

Finding 1 – That the strict application of the provisions of this chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the chapter the Coachella Municipal Code.

The strict application of the chapter does not create a practical difficulty or unnecessary hardship. The code requires that the wall planes or sides of an accessory structure must be a minimum of (10) feet from the sides or wall planes of any other structure, measured at right angles from the wall plane or sides of the accessory structure. The strict application of the code would not result in practical difficulties or unnecessary hardships as the size and shape of the lot is typical for the neighborhood and within the S-N Suburban Neighborhood zone. The subject property is on a rectangular 6,534 SF lot where the average minimum required lot size is 5,000 SF in the zone. The lot width of the property is 63 feet in width and 110 feet in depth, where the minimum required lot width is 50 feet and minimum lot depth is 80 feet in the zone. The subject property has a rear yard sufficient in size at a 31-foot setback, where only a 20-foot rear yard setback is required in the zone. As detailed above, the residential lot complies with the development standards of the S-N zone and there is not a unique hardship due to the size or shape of the lot. The property rear yard provides sufficient space for the construction of a patio in compliance with the standards of the S-N zone and does not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the chapter of the Coachella Municipal Code.

Finding 2 – There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.

The subject property is oriented in an east-west orientation which is not at the recommended orientation for energy conservation per policy 5.10 of the Land Use and Community Charter of the General Plan which recommends lots at a north-west orientation. The east-west orientation of the lot creates a special circumstance that does not apply to all other properties in the same zone and vicinity.

Finding 3 – The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity, but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

The variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity as there are no practical difficulties or unnecessary hardship due to the size and shape of the lot. As discussed in Finding 1, there are no practical difficulties or unnecessary hardships in the strict application of the municipal code. The strict application of the municipal code would not prevent the applicant from the enjoyment of a substantial property right, the construction of a patio that meets municipal code requirements. As discussed in Finding 2, the orientation of the lot is a special circumstance that negatively impacts energy

conservation of the home, which is compounded by the fact that the city of Coachella faces extreme heat and weather year round. However, as discussed in Finding 1, a patio constructed within the strict application of the municipal code may have similarly reduced the negative impacts of energy conservation.

Finding 4 – The granting of the proposed variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The granting of the proposed variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity. The patio structure is located in the rear yard of the subject property, only visible from the public from the adjacent open space area to the south. The design of the patio structure provides a tile roof design and color palette that is compatible to the main residence and the surrounding neighborhood. The reduced setback visually connects the patio to the main house which reduces the aesthetic impact to the surrounding area. Together, the reduced setback and design of the patio is aesthetically compatible with the surrounding area. The variance will not be materially detrimental to the property in question in regards to sufficient open space, as the code requires a maximum of 50% of the required rear yard to be covered by structures. This requirement protects open space in the rear yard. If the variance were to be approved by the planning commission, the variance approval would be subject to the conditions required by the Building Division. The Building Division requires as a condition of approval that the patio meet California Building Standards by requiring a building permit and to make any necessary modifications. The Fire Department stated that setbacks are established by the City Building Division and had no further comments on the variance. The conditions of approval provided by the Building Division will ensure the variance is not materially detrimental to the public welfare or injurious to the property or improvements in the same zone.

Finding 5 – The granting of the variance would not adversely affect any element of the General Plan, as the General Plan does not preclude accessory patio structures within a 5-foot setback or less from the main structure within the Suburban Neighborhood designation.

#### Environmental Setting:

The subject site is at 48552 Playa Del Amor Street within the Tierra Del Sol Subdivision, and the subject property is surrounded by Suburban Neighborhood (S-N) zone uses to the north, south, west, and east.

#### Agency Comments:

Staff received comments from the Fire and Building Department regarding the subject variance application. The Riverside County Fire Department identified that setbacks are established by the City Building Division and that there were no further comments for the project (Attachment 6). If the planning commission were to recommend for approval, the Building Division provided

conditions of approval which require a building permit, inspections, and to make any necessary modifications to the patio. The Building Official also stipulated that the patio structure complies with the required setbacks specified in Table R302.1 for exterior walls of the California Residential Code. Therefore, no additional fire rating is required. Staff concludes, per the comments received from the Fire and Building Departments, that granting of the proposed variance to maintain the patio as is, would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

### **ENVIRONMENTAL REVIEW:**

Staff has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as “New Construction or Conversion of Small Structures” (CEQA Guidelines, Section 15303). The proposed project consists of the location of a small patio structure.

### **ALTERNATIVES:**

- 1) Adopt Resolution No. PC2024-24 denying Variance No. 2024-01 with the findings and conditions as recommended by Staff.
- 2) Not approve Resolution No. PC 2024-24 and request that staff prepare a Planning Commission Resolution for approval of Variance No. 24-01.
- 3) Continue this item and provide staff and the applicant with direction.

### **CONCLUSIONS AND RECOMMENDATIONS**

Based on the analysis contained herein and the findings listed below, staff is recommending that the Planning Commission deny Variance No. 24-01 with the findings listed in Resolution No. PC2024-24.

#### Attachments:

1. Resolution No. PC2024-24 Variance 24-01 for Denial
2. Site Map
3. Vicinity Map
4. Site Photos
5. Riverside County Fire Department Comments
6. City Building Division Comments