



## STAFF REPORT 11/20/2024

**TO:** Planning Commission Chair and Commissioners

**FROM:** Adrian Moreno, Associate Planner

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

**SPECIFICS:** 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. PC2024-28 approving 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

On November 6, 2024, Planning Commission recommended approval of the variance and requested that a resolution of approval be prepared for the November 20, 2024 Planning Commission meeting as a non-hearing item.

**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	<b>5 foot setback</b>
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:**

Staff prepared findings for approval of the variance as follows:

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 create a practical difficulty or unnecessary hardship inconsistent with the general purpose and intent of the chapter of the Coachella Municipal Code. 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 site faces a practical difficulty and unnecessary hardship of being adjacent to an open space retention basin to the south of the subject property. As a result, the applicant’s property

faces increased pedestrian activity south of the property, which creates a hardship on the applicant to ensure that any construction in the rear yard does not create a negative aesthetic impact to the neighborhood. The intention of the 10-foot setback is to preserve safety and aesthetics. In regards to this variance, the Riverside County Fire Department provided comments that identified that the City Building Division establishes setbacks and that there were no further comments for this variance. The Building Division provided conditions of approval that require a permit and inspections which will ensure safety. The patio meets the city's aesthetic standards by providing a patio structure with roof tiles compatible with the main dwelling, as required by Chapter 17.19.020(D)(8) for accessory structures. The 5-foot setback variance requested by the applicant also visually connects the patio to the main house, which reduces the aesthetic impacts of the patio in the neighborhood. In combination, the conditions of approval and design of the patio addresses the intentions of the 10-foot setback requirement to ensure aesthetics and safety. The variance would alleviate the hardship the applicant faces to preserve aesthetics in the neighborhood. The approval of the variance will ensure the goal of neighborhood preservation, identified as policy 5.23 of the land and community character chapter of the General Plan.

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.

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. The property is also adjacent to an open space retention basin area, a unique circumstance that does not generally apply to other property 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 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. As discussed in Finding 1, the applicant faces the hardship of increased responsibility to ensure that any construction in the rear yard does not create a negative aesthetic impact to the neighborhood. As discussed in Finding 2, the orientation of the lot is a special circumstance that negatively affects energy conservation of the home, which is compounded by the fact that the city of Coachella faces extreme heat and weather year round. Without the variance, the applicant

will face increased hardships to ensure construction in the neighborhood preserve aesthetics in the neighborhood, and impact the ability to ensure the negative effects of energy conservation do not impact the property. The granting of the setback variance is necessary to ensure the preservation and enjoyment of a substantial property right to construct a patio.

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, visible from the public from the adjacent open space area to the south. A property owner adjacent to the property provided comments that the patio and variance did not impact them. 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. The Building Division provided conditions of approval that ensure compliance with California Building Standards, these conditions were added as condition of approval for this project. The conditions of approval requires a building permit, inspections, and to make any necessary modifications. The Fire Department stated that the City Building Division establishes setbacks 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. The approval of the variance will ensure the neighborhood preservation, policy 5.23 of the land and community character chapter of the General Plan.

#### 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). 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. PC2024-28 approving Variance No. 2024-01 with the findings and conditions as recommended by Staff.
- 2) Continue this item and provide staff and the applicant with direction.

### **CONCLUSIONS AND RECOMMENDATIONS**

Staff recommends that the Planning Commission approve Variance No. 24-01 with the findings listed in Resolution No. PC2024-28.

### Attachments:

1. Resolution No. PC2024-28 Variance No. 24-01
2. Site Map
3. Vicinity Map
4. Site Photos
5. Riverside County Fire Department Comments
6. City Building Division Comments