

INDIAN WELLS CITY COUNCIL

April 6, 2023



To: City Council
From: Community Development
Prepared by: Jon Berg, Community Development Director
Subject: **Consider Planning Commission Recommendation that City Council Approve Variance No. 2023-01 for Front and Side-Front Perimeter Five-foot (5') High Block Wall to be Setback 12-feet from Curb for Existing Residence Located at 76470 Shoshone Drive (APN: 633-224-013), and Finding the Project Exempt from CEQA.**

RECOMMENDED ACTION:

Council **RECEIVES** and **FILES** Resolution No. PC 2023-02, thereby concurring with the Planning Commission Recommendation to Approve Variance No. 2023-01 permitting encroachment into the front and side-front setback for a new 5-foot-high courtyard wall to be located 12-feet from curb for the existing residence located at 76470 Shoshone Drive (APN: 633-224-013); and

FINDS the project Exempt from CEQA.

SUMMARY:

Variance No. 2023-01 is a request by Mr. Jason Whitley (Whitley Construction), on behalf of owner Ms. Patricia Osmanson (Applicant), to construct a new 5-foot-high courtyard wall within the front and side-front setback for the existing residence located at 76470 Shoshone Drive. As part of a residential remodel and addition to the existing home, the Applicant would like to install a new pool and patio area within the front courtyard of the lot. California State Health and Safety Code Section 115923 AB [3305](#), mandates a 5-foot high pool barrier wall enclose the private pool area.

Considering the irregular shape of the lot, its curved frontage, the existing configuration of the home on the lot, and expansive right-of-way, the Applicant formally requested a Variance to construct the required pool barrier wall 12-feet from the back of curb, instead of 10-feet from the property line. It is the homeowner's contention that this would allow adequate deck space between the home and the pool, while still maintaining a generous setback between the pool barrier wall and street, consistent with the location of other courtyard walls in the neighborhood.

In addition, the wall location has been designed to comply with the protection of intersection visibility standards (corner cutback area) outlined in Section 21.50.040 of the Indian Wells Municipal Code ("IWMC"). The project also includes an attractive desert landscape design between the wall and curb, consisting of decorative groundcover, succulents, cacti, bougainvillea, and a variety of shrubs and trees.

The Planning Commission reviewed Variance No. 2023-01 at a public hearing held on April 30, 2023, and recommended approval to City Council by a unanimous vote. The full Planning Commission Staff Report with Resolution No. PC 2023-02 is included as Attachment 1. Section 21.06.050(c) of the IWMC requires that a variance application, once approved by the Planning Commission, be placed on the City Council's Consent Calendar. The City Council may, at its discretion, either receive and file Resolution No. PC 2023-02, thereby concurring with the Planning Commission recommendation for approval, or remove the item from the Consent Calendar and request that the item be scheduled for a future Public Hearing with City Council. If the item remains on the Consent Calendar, the "date of decision of the City Council" for purposes of Section 21.06.050(e)(1) shall be the date the Consent Calendar containing the item is approved by the City Council.

California Environments Quality Act (CEQA):

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as Lead Agency, determined that the project is exempt from CEQA pursuant to Public Resources Code Section 21080 and CEQA Guidelines Section 15303(a)(e) New Construction or Conversion of Small Structures.

ATTACHMENTS:

1. PC Staff Report & Resolution No. PC 2023-02