



## Planning Commission Staff Report

Date: June 24, 2009

Case No.: 6.515 VAR

Type: Variance

Location: 933 Paseo Caroleta

APN: 680-143-014

Applicant: Norlito Agriam

General Plan: LDR (Low Density Residential)

Zone: R-1-D (Single Family Residential)

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: David A. Newell, Associate Planner

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### **PROJECT DESCRIPTION:**

The proposal is a request by Norlito Agriam, property owner, for a Variance to Section 92.01.03(B)(3)(a) of the Palm Springs Zoning Code (PSZC) to reduce the required rear yard setback from fifteen feet to five feet for the property located at 933 Paseo Caroleta.

### **RECOMMENDATION:**

That the Planning Commission approve Case No. 6.515 VAR, to reduce the required rear yard setback from fifteen feet to five for the property located at 933 Paseo Caroleta.

### **BACKGROUND AND SETTING:**

The applicant has owned the property since 1984. On June 14, 1991, the applicant requested a code compliance inspection from the Building Department. On June 25, 1991, the Building Department sent a letter to Mr. Agriam that noted two violations:

1. A carport has been enclosed to habitable area.

2. A room has been added behind the converted carport. This room appears to be in the side and rear setback areas.

The site is located at the eastern corner of Paseo Caroleta and Karlisa Cove. Access to the residence is provided from Karlisa Cove. The residence has a legal square footage of 1,189. The subject site is surrounded by single-family residences. The surrounding Land Uses are shown in the table below:

**Table 1: General Plan, Zone and Surrounding Land Uses**

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
North	Low Density Residential	R-1-D	Single-Family Residence
South	Low Density Residential	R-1-D	Single-Family Residence
East	Low Density Residential	R-1-D	Single-Family Residence
West	Low Density Residential	R-1-D	Single-Family Residence

**ANALYSIS:**

Section 106.1 of the California Code of Regulations, Title 24 (California Building Standards Code) requires a permit to be obtained from the Building Official, prior to erection, construction, enlargement, alteration, repair, movement, conversion, removal, or demolition of any structure or building. There is no evidence of record that the building permits were ever obtained prior to the construction of the addition in question. As a non-permitted structure the applicant must submit for and receive building permits and this requires the construction to conform to all current codes; therefore, a Variance is required for the current encroachment.

*Project Description:*

The applicant proposes to eliminate the structure located within the interior side yard setback (see site plan), as well as restore the enclosed habitable space that was originally approved as a one-car carport. The Zoning Code currently requires two covered parking spaces; however, if the property owner restores the single covered parking space, the property will be considered legal nonconforming. If the Variance is approved, the structure behind the converted carport / garage will be allowed to remain after the proper building permits are obtained.

*General Plan:*

The neighborhood in which the site is located has a Low Density Residential (4.1 – 6.0 du/ac) General Plan designation. The purpose of this land use designation is to accommodate various types of low-density residential development, including traditional-single family homes. The Low Density Residential threshold is 4.1 dwelling units per acre and maximum density is 6 dwelling units per acre. The use, a single family residence, is consistent with the General Plan.

**Zoning:**

The subject property is located within the R-1-D (Single Family Residential) Zone and is defined as a "reversed corner lot"<sup>1</sup> by Section 91.00.10 of the PSZC. The development standards for a reversed corner property within the R-1-D Zone are compared to the subject property in Table 2 below:

**Table 2: R-1-D Lot Standards and Subject Property Lot Standards**

	<b>R-1-D Standard</b>	<b>Subject Property</b>
Lot Width	92 feet	75 feet
Lot Depth	100 feet	85 feet
Lot Area	7,500 square feet	6,375 square feet

Table 2 above shows that the subject property is substandard in all lot development standards. Since the property is a reversed corner lot, the lot width requirement is greater than that of a standard corner lot (minimum width of 82 feet) and that of an interior lot (minimum width of 75 feet).

Reversed corner lots within the R-1-D Zone are subject to the setback requirements defined in Table 3 below.

**Table 3: R-1-D Setback Standards and Subject Property Setback Standards**

	<b>R-1-D Standard</b>	<b>Subject Property</b>
Front Yard	25 feet	20 feet
Street Side Yard	25 feet	26 feet
Interior Side Yard	10 feet	12.5 feet
Rear Yard	15 feet	5 feet

Table 3 above shows that the property has two twenty-five foot setback requirements. If all the above setback requirements are followed on the subject property, the maximum buildable area would be 1,800 square feet. This translates to a forty foot by forty-five foot buildable area that utilizes all space which is not setback area and includes accessory structures that are not considered floor area, such as a garage or carport and patio covers with ground support structures. Since all single-family residences are required to provide covered parking and many residences enjoy the privilege of patio covers, the strict application of the Zoning Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification due to its size and location. Staff believes that these circumstances are grounds for supporting a variance and recommends the draft findings provided below and in the attached draft resolution.

**REQUIRED FINDINGS:**

State law requires four (4) findings be made for the granting of a variance. Staff has analyzed the findings in order below:

<sup>1</sup> "Reversed corner lot" means a corner lot, the side line of which is substantially a continuation of the front lot lines of the lots to its rear, whether across an alley or not.

- 1) *Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The subject property is located within the R-1-D (*Single Family Residential*) Zone and is defined as a "reversed corner lot" by Section 91.00.10 (*Definitions*) of the PSZC. The development standards for a reversed corner property within the R-1-D Zone are compared to the subject property in Table 4 below:

**Table 4: R-1-D Lot Standards and Subject Property Lot Standards**

	<b>R-1-D Standard</b>	<b>Subject Property</b>
Lot Width	92 feet	75 feet
Lot Depth	100 feet	85 feet
Lot Area	7,500 square feet	6,375 square feet

Table 4 above shows that the subject property is substandard in all lot development standards. Since the property is a reversed corner lot, the lot width requirement is greater than that of a standard corner lot (minimum width of 82 feet) and that of an interior lot (minimum width of 75 feet).

Reversed corner lots within the R-1-D Zone are subject to the setback requirements defined in Table 5 below.

**Table 5: R-1-D Setback Standards and Subject Property Setback Standards**

	<b>R-1-D Standard</b>	<b>Subject Property</b>
Front Yard	25 feet	20 feet
Street Side Yard	25 feet	26 feet
Interior Side Yard	10 feet	12.5 feet
Rear Yard	15 feet	5 feet

Table 5 above shows that the property has two twenty-five foot setback requirements. If all the above setback requirements are followed on the subject property, the maximum buildable area would be 1,800 square feet. This translates to a forty foot by forty-five foot buildable area that utilizes all space which is not setback area and includes accessory structures that are not considered floor area, such as a garage or carport and patio covers with ground support structures. Since all single-family residences are required to provide covered parking and many residences enjoy the privilege of patio covers, the strict application of the Zoning Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification due to its size and location.

- 2) *Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

The subject property is a substandard lot which is similar in size to neighboring properties in the vicinity and zone that have lesser setback requirements. These neighboring properties are interior lots that have larger buildable areas. The conditions imposed ensure that the rear yard setback will be no less than five feet to allow for additional buildable area that is almost the same as other properties in the vicinity and zone in which the subject property is situated.

- 3) *The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The variance will allow a rear yard setback of five feet. Condition of Approval Number ADM 1 has been imposed to ensure that the property owner maintains a five foot clear pathway around the residence for emergency personnel. Condition of Approval Number BLD 1 requires that the applicant to obtain all of the proper building permits for the structure. Therefore, the project is unlikely to be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which the subject property is situated. to the public health, safety, convenience, or welfare or injurious to property and improvements in the area.

- 4) *The granting of such variance will not adversely affect the general plan of the city.*

The neighborhood in which the site is located has a Low Density Residential (4.1 – 6.0 du/ac) General Plan designation. The purpose of this land use designation is to accommodate various types of low-density residential development, including traditional-single family homes. The Low Density Residential threshold is 4.1 dwelling units per acre and maximum density is 6 dwelling units per acre. The use, a single family residence, is consistent with the General Plan. A setback reduction will not adversely affect the general plan of the city.

#### **CONCLUSION:**

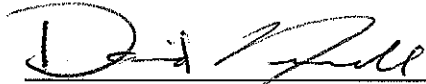
The subject property's size and location creates a special circumstance that limits the buildable area. On this basis, staff is recommending that the Planning Commission approve Case No. 6.515 – VAR, which reduces the rear yard setback from fifteen feet to five feet.

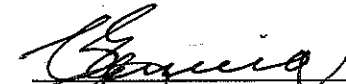
#### **ENVIRONMENTAL DETERMINATION:**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-family residence).

**NOTIFICATION:**

A notice was mailed to all property owners within a four hundred foot radius in accordance with state law. As of the writing of this report, staff received one inquiry from a neighboring property requesting further details but no written correspondence has been received.

  
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David A. Newell  
Associate Planner

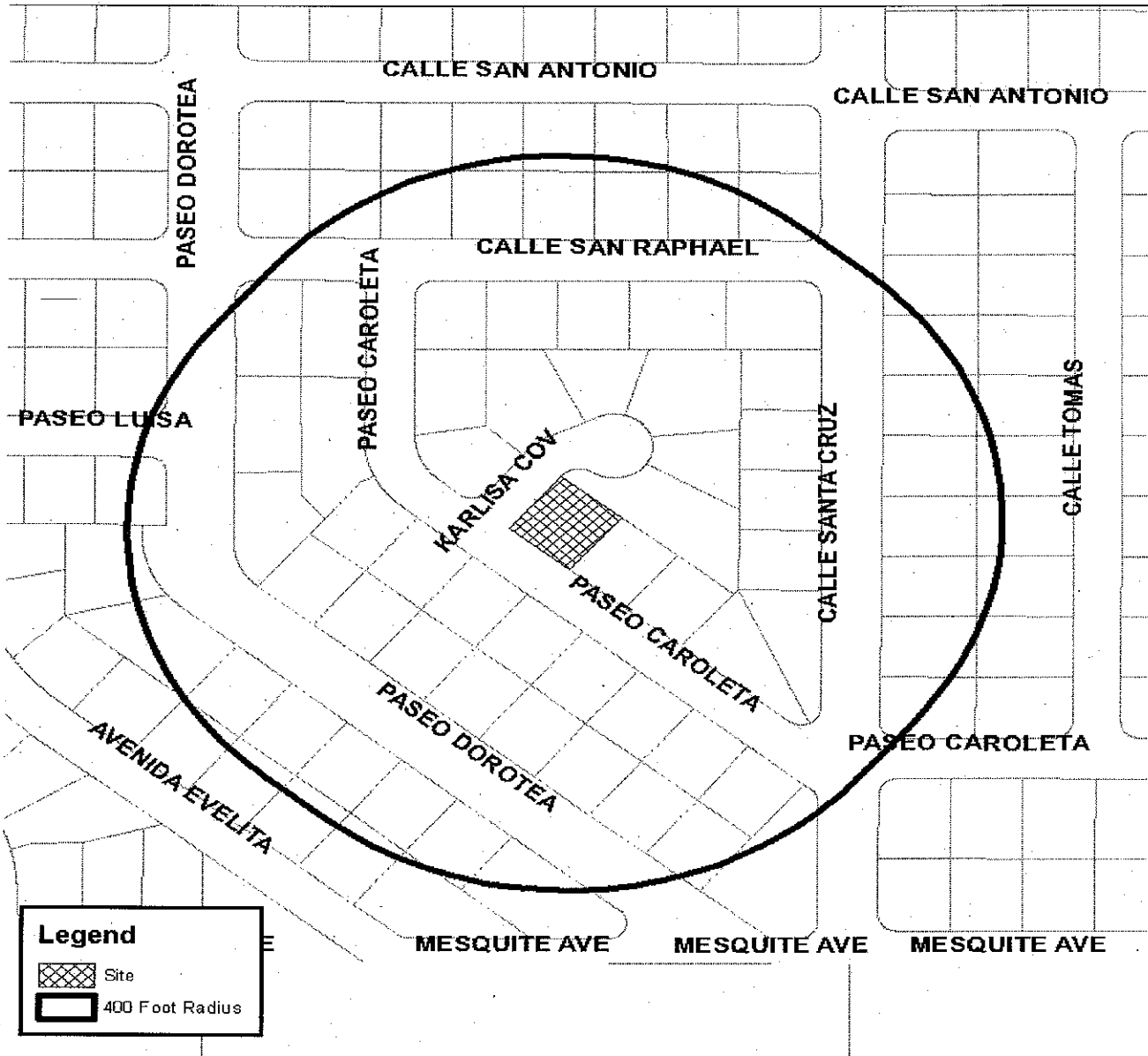
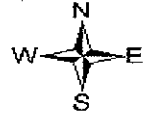
  
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Craig A. Ewing, AICP  
Director of Planning Services

**Attachments:**

- Vicinity Map
- Draft Resolution with Conditions of Approval
- Site plan



# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE NO:** 6.515 VAR

**APPLICANT:** Norlito & Lina Agriam

**DESCRIPTION:** The purpose of this hearing is to consider a request by Norlito and Lina Agriam for a Variance to Section 92.01.03.B (Yards) to allow a reduced building setback from the required fifteen feet to five feet within the R-1-D (Single Family Residential) Zone. The proposal is to allow an addition constructed without permits at 933 Paseo Caroleta.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING A VARIANCE TO ALLOW A FIVE FOOT REAR YARD SETBACK FOR A SINGLE FAMILY RESIDENCE LOCATED AT 933 PASEO CAROLETA.

WHEREAS, Norlito Agriam ("the applicant") has filed a request for a variance to Zoning Code, Section 92.01.03(B)(3)(a), to reduce the required rear yard setback from fifteen feet to five feet for the property located at 933 Paseo Caroleta, Zoned R-1-D, Section 19; and

WHEREAS, notice of a public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 6.515 VAR, a Variance Application was given in accordance with applicable law; and

WHEREAS, on June 24, 2009, a public hearing on a request for a variance to Zoning Code, Section 92.01.03(B)(3)(a), was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and has been determined to be Categorically Exempt as a Class III exemption (single-family residence) pursuant to Section 15303(a) of the CEQA Guidelines; and

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the meeting on the project, including but not limited to the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Pursuant to the California Environmental Quality Act (CEQA Guidelines), the proposed project is Categorically Exempt under Section 15303(a) (New Single-family residence).

Section 2: Pursuant to Section 94.06.00 (Variance) of the Palm Springs Zoning Code, the Planning Commission finds that:

1. *Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The subject property is located within the R-1-D (*Single Family Residential*) Zone and is defined as a "reversed corner lot" by Section 91.00.10 (*Definitions*) of the



PSZC. The development standards for a reversed corner property within the R-1-D Zone are compared to the subject property in Table 1 below:

**Table 1: R-1-D Lot Standards and Subject Property Lot Standards**

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Reversed corner lots within the R-1-D Zone are subject to the setback requirements defined in Table 2 below.

**Table 2: R-1-D Setback Standards and Subject Property Setback Standards**

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- Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

The subject property is a substandard lot which is similar in size to neighboring properties in the vicinity and zone that have lesser setback requirements. These neighboring properties are interior lots that have larger buildable areas. The conditions imposed ensure that the rear yard setback will be no less than five feet to allow for additional buildable area that is almost the same as other properties in the vicinity and zone in which the subject property is situated.

3. *The granting of the variance will not be materially detrimental to the public health, safety, convenience or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The variance will allow a rear yard setback of five feet. Condition of Approval Number ADM 1 has been imposed to ensure that the property owner maintains a five foot clear pathway around the residence for emergency personnel. Condition of Approval Number BLD 1 requires that the applicant to obtain all of the proper building permits for the structure. Therefore, the project is unlikely to be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which the subject property is situated. to the public health, safety, convenience, or welfare or injurious to property and improvements in the area.

4. *The granting of such variance will not adversely affect the general plan of the city.*

The neighborhood in which the site is located has a Low Density Residential (4.1 – 6.0 du/ac) General Plan designation. The purpose of this land use designation is to accommodate various types of low-density residential development, including traditional-single family homes. The Low Density Residential threshold is 4.1 dwelling units per acre and maximum density is 6 dwelling units per acre. The use, a single family residence, is consistent with the General Plan. A setback reduction will not adversely affect the general plan of the city.

NOW, THEREFORE, BE IT RESOLVED that based upon the foregoing, the Planning Commission approves the request for a variance to Zoning Code, Section 92.01.03(B)(3)(a) to reduce the required rear yard setback from fifteen feet to five feet for the property located at 933 Paseo Caroleta, subject to the conditions of approval attached herewith as Exhibit A.

ADOPTED this 24<sup>th</sup> day of June, 2009.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig A. Ewing, AICP  
Director of Planning Services

RESOLUTION NO. \_\_\_\_\_

**EXHIBIT A**

Case No. 6.515 – VAR

933 Paseo Caroleta

June 24, 2009

**CONDITIONS OF APPROVAL**

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer, the Director of Planning Services, the Director of Building and Safety, the Chief of Police, the Fire Chief or their designee, depending on which department recommended the condition.

Any agreements, easements or covenants required to be entered into shall be in a form approved by the City Attorney.

**ADMINISTRATIVE CONDITIONS**

- ADM 1. Project Description. This approval is for the project described per Case 6.515 VAR, which allows for a rear yard setback of five feet per the approved site plan. The property owner shall maintain, at all times, a clear path of five feet along the rear yard for emergency access purposes.
- ADM 2. The site shall be developed and maintained in accordance with the approved plans, date stamped June 23, 2008, which includes the site plan on file in the Planning Division except as modified by conditions below.
- ADM 3. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 6.515 VAR. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City

of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. The time limit for commencement of construction / legalizing the structure shall be two (2) years from the effective date of approval. Extensions of time may be granted by the Planning Commission upon demonstration of good cause. Such extensions shall be requested in writing and received prior to expiration of original approval.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.

### **PLANNING DEPARTMENT CONDITIONS**

- PLN 1. Outdoor Lighting Conformance. Exterior lighting shall conform to Section 93.21.00, Outdoor Lighting Standards, of the Palm Springs Zoning Code.
- PLN 2. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Code.

### **BUILDING DEPARTMENT CONDITIONS**

- BLD 1. The applicant shall obtain all appropriate building permits to legalize the non-permitted structure(s) on the property.
- BLD 2. All non-permitted work will require inspection which may require opening up the walls, ceiling and footings to verify construction.

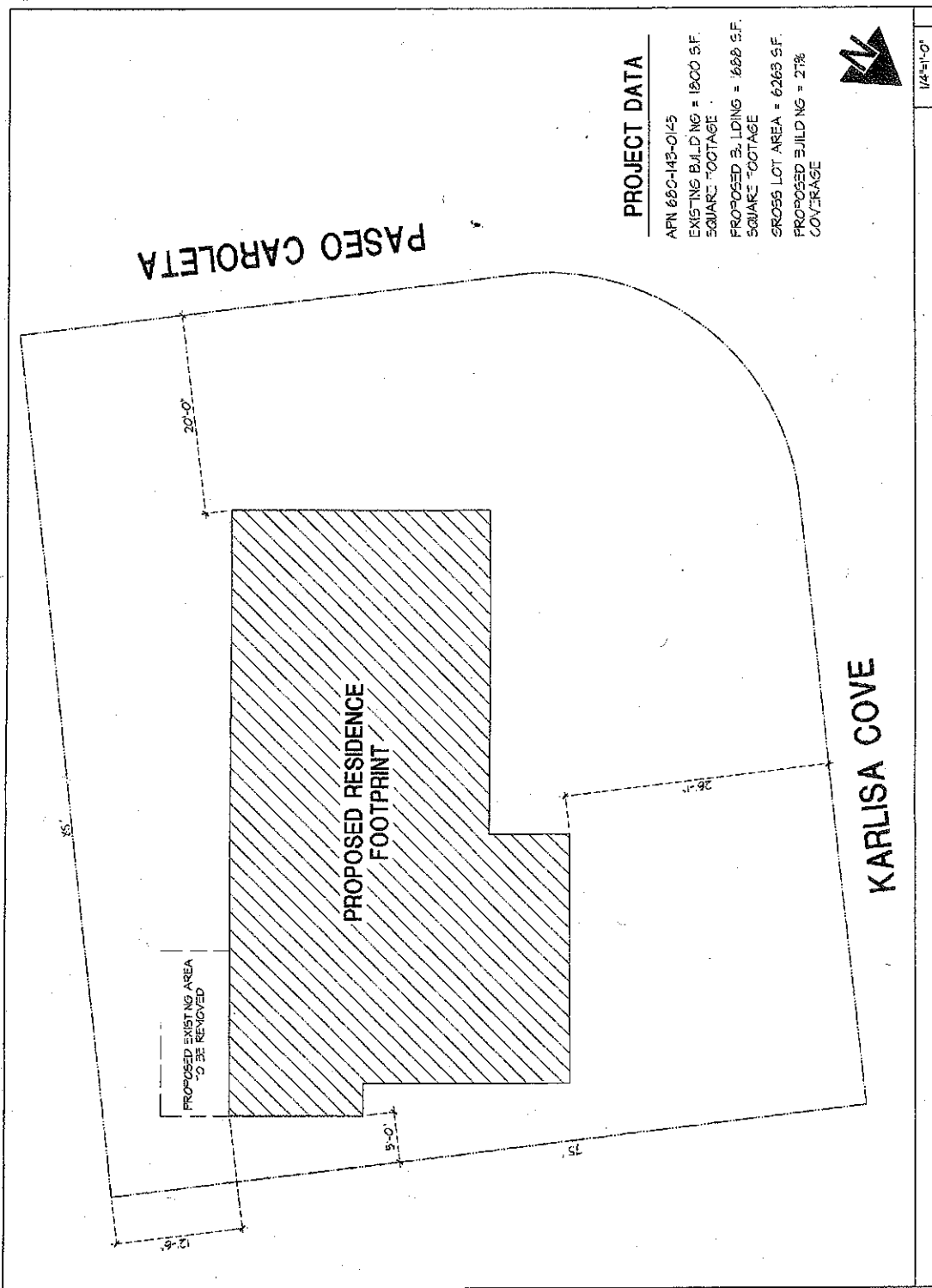
**END OF CONDITIONS**

DATE: 6-27-08  
C. S. H. H. A. D.  
RECEIVED  
DRAWING SERVICES

DRAFTING SERVICES BY  
BERT S. WANG  
405 GARDEN SAN VICENTE  
PALM SPRINGS, CA, 92262  
(760) 567-9008

A RESIDENCE REWODEL FOR  
MR. AND MRS. NORLITO ASRIAN  
433 SOUTH PASEO CAROLETA  
PALM SPRINGS, CALIFORNIA

PROPOSED PLOT PLAN  
FOR ADMINISTRATIVE  
MINOR MODIFICATION



**PROJECT DATA**

APN 660-143-0145  
EXISTING BUILDING = 1800 S.F.  
SQUARE FOOTAGE  
PROPOSED BUILDING = 1688 S.F.  
SQUARE FOOTAGE  
GROSS LOT AREA = 6263 S.F.  
PROPOSED BUILDING = 27%  
COVERAGE

1/4" = 1'-0"