

12/05/23 PC AGENDA SHEET

AVIARY AND SHED SETBACK  
(TITLE 30)

ANCHORAGE ST/NORFOLK CT

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**UC-23-0673-TAN EDISON C III:**

**USE PERMIT** to allow an aviary.

**WAIVERS OF DEVELOPMENT STANDARDS** for the following: **1)** increase the number of birds allowed; and **2)** reduce setbacks in conjunction with a single family residence on 0.2 acres in an R-1 (Single Family Residential) Zone.

Generally located on the south side of Anchorage Street and the west side of Norfolk Court within Spring Valley. MN/mh/syp (For possible action)

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RELATED INFORMATION:

**APN:**

163-22-415-040

**WAIVERS OF DEVELOPMENT STANDARDS:**

1. Increase the number of birds to 47 where a maximum of 20 are allowed per Table 30.44-1 (a 135% increase).
2. Reduce the interior side setback to zero feet where a minimum of 5 feet is required per Table 30.40-2 (a 100% reduction).

**LAND USE PLAN:**

SPRING VALLEY - MID-INTENSITY SUBURBAN NEIGHBORHOOD (UP TO 8 DU/AC)

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: 4749 Norfolk Court
- Site Acreage: 0.2
- Project Type: Aviary and shed setback
- Number of Stories: 2 (residence)/1 (shed)
- Building Height (feet): 7 feet, 6 inches
- Square Feet: 1,196 (residence)/161 (shed)

Site Plans

The plans depict an existing residence with an attached garage in the front of the property along with an attached patio cover in the rear yard. There is an existing 161 square foot shed in the northwest corner of the property, set back zero feet from the interior side property line, and 7 feet

from the rear property line. According to the applicant, this shed is currently being used for storage and as an aviary, containing 47 birds, including 10 parakeets, 6 American budgies, 5 parrots, and 26 African lovebirds. The front of the property currently features 2 separate driveways, which are connected by pavement. One of the driveways is unpermitted and prohibited in the area. Public Works is requiring the ADA ramp to be rebuilt so that vehicular access cannot occur.

Landscaping

There are no proposed or required changes to landscaping as part of this application.

Elevations

The shed is 7 feet 6 inches tall, 7 feet wide, and 23 feet in length. The materials consist of lumber and plywood, with an asphalt roof. There is bird screen for the aviary portion of the shed, along with painted plywood for the storage portion.

Signage

Signage is not a part of this request.

Applicant’s Justification

The applicant states that the construction of the shed was carried out appropriately and will not extend into the road or infringe on the neighboring properties. The applicant adds that neighbors were contacted and approved of the shed prior to its construction. The applicant indicates that he was unaware of restrictions on birds and that the birds do not make noise at night. Lastly, the applicant states that these uses are limited to the rear of the property and will not be seen from public view.

**Surrounding Land Use**

	<b>Planned Land Use Category</b>	<b>Zoning District</b>	<b>Existing Land Use</b>
North, South, East, & West	Mid-Intensity Suburban Neighborhood (up to 8 du/ac)	R-1	Single family residential

**Clark County Public Response Office (CCPRO)**

There is an active code enforcement case on the property for building without a permit.

**STANDARDS FOR APPROVAL:**

The applicant shall demonstrate that the proposed request meets the goals and purposes of Title 30.

**Analysis**

**Comprehensive Planning**

Use Permit

A use permit is a discretionary land use application that is considered on a case by case basis in consideration of Title 30 and the Master Plan. One of several criteria the applicant must establish is that the use is appropriate at the proposed location and demonstrate the use shall not result in a substantial or undue adverse effect on adjacent properties.

Staff finds that an aviary is an inconsistent use with the surrounding neighborhood, and that the proximity of the aviary to adjacent properties may have adverse effects on these properties. There are no proposed mitigating measures that will limit the impact on adjacent properties; therefore, staff cannot support this request.

#### Waivers of Development Standards

According to Title 30, the applicant shall have the burden of proof to establish that the proposed request is appropriate for its existing location by showing that the uses of the area adjacent to the property included in the waiver of development standards request will not be affected in a substantially adverse manner. The intent and purpose of a waiver of development standards is to modify a development standard where the provision of an alternative standard, or other factors which mitigate the impact of the relaxed standard, may justify an alternative.

#### Waiver of Development Standards #1

Since staff is unable to support the request for a special use permit to allow an aviary, staff also cannot support the request to increase the number of birds allowed.

#### Waiver of Development Standards #2

The shed was constructed without building permits or approval for reduced setbacks. Although the owner of the adjacent property to the west and the property owner across the street have both indicated that they have no objection to the shed, there remains a lack of mitigating measures that would limit the potential impact on other properties; therefore, staff cannot support this request.

#### **Staff Recommendation**

Denial.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Master Plan, Title 30, and/or the Nevada Revised Statutes.

#### **PRELIMINARY STAFF CONDITIONS:**

##### **Comprehensive Planning**

If approved:

- 1 year to complete the building permit and inspection process with any extension of time to be a public hearing.
- Applicant is advised that the County has adopted a rewrite to Title 30 effective January 1, 2024, and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

**Public Works - Development Review**

- Reconstruct ADA ramp at the corner of Norfolk Court and Anchorage Street to restrict access to the unpermitted driveway:
- Gates at the unpermitted driveway to not open into the public right-of-way.

**Clark County Water Reclamation District (CCWRD)**

- No comment.

**TAB/CAC:** Spring Valley - denial.

**APPROVALS:**

**PROTESTS:**

**APPLICANT:** EDISON CABATINGAN TAN

**CONTACT:** EDISON TAN, 4749 NORFOLK COURT, LAS VEGAS, NV 89147