



AGENDA MEMO

CITY COUNCIL MEETING OF: OCTOBER 21, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-35557 - APPLICANT: NEVADA H.A.N.D., INC. - OWNER: SILVER SKY TWO, LP

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to conditions.

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-35554) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a 10-foot front yard setback where 20 feet is required and to allow a five-foot rear yard setback where 20 feet is required for a proposed 40-unit Senior Citizen Apartment development on 4.72 acres adjacent to the north side of Silver Sky Drive, approximately 500 feet east of Roland Wiley Drive. This Variance request for a reduction of minimum setback requirements is the result of a self-imposed financial hardship that could have been alleviated through adherence to the existing approvals on the site; therefore, staff recommends denial of the request. If denied, the proposed Senior Citizen Apartment development could not be built on the subject site, and the site would remain as an undeveloped parcel until a subsequent application is submitted for development.

ISSUES

- This Variance is a direct result of the proposed subdivision of the subject site into two parcels for financial reasons, as stated in the applicant's justification letter. Because this request is the direct result of a self-imposed financial hardship, staff recommends denial.
- Approval of this variance is required for approval of the related Site Development Plan Review (SDR-35554).
- If approved, the previous Site Development Plan Review (SDR-33010) and Variance (VAR-33012) approvals will be expunged.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc and Property Sales</i>	
05/15/02	The City Council approved a General Plan Amendment (GPA-0003-02) from R.O.W. (Right-of-Way) and PR-OS (Parks/Recreation/Open Space) to PR-OS (Parks/Recreation/Open Space) on approximately 156 acres located adjacent to the south side of Washington Avenue between Buffalo Drive and Durango Drive and adjacent to the west side of Durango Drive between Summerlin Parkway and Vegas Drive. The Planning Commission and staff recommended approval of the request.
06/05/02	The City Council approved a Site Development Plan Review [Z-0017-02(1)] for a City Park on approximately 156 acres located adjacent to the south side of Washington Avenue between Buffalo Drive and Durango Drive and adjacent to the west side of Durango Drive between Summerlin Parkway and Vegas Drive. The Planning Commission and staff recommended approval of the request.
12/01/03	A Code Enforcement complaint (#7201) was processed for vehicle code violations at the subject property. The case was resolved on 12/10/03.

09/15/04	The City Council approved a General Plan Amendment (GPA-4528) to amend a portion of the Southwest Sector Plan of the General Plan from MLA (Medium Low Attached Density Residential) to M (Medium Density Residential) on 10.00 acres adjacent to the northeast corner of Roland Wiley Road and Silver Sky Drive. The Planning Commission recommended denial of this request, whereas staff recommended approval.
12/28/04	A Code Enforcement complaint (#24798) was processed for vehicle code violations at the subject property. The case was resolved 12/30/04.
02/01/05	Planning and Development Department staff administratively approved a three-lot Parcel Map (PMP-5277) on property located on the southwest corner of Summerlin Parkway and Cimarron Road. The map was recorded on 02/22/05.
03/16/05	A deed was recorded for a change of ownership.
03/31/09	Planning and Development Department staff administratively approved a Reversionary Parcel Map (PMP-33933) to revert two lots to acreage on 4.71 acres adjacent to the north side of Silver Sky Drive, approximately 450 feet east of Roland Wiley Road. The map was recorded on 06/03/09.
05/06/09	The City Council approved a Site Development Plan Review (SDR-33010) for a two and three-story 120-unit Senior Citizen Apartment development with a Waiver to allow a zero-foot landscape buffer along the west perimeter where six feet is the minimum required, a Variance (VAR-33012) to allow a 79-foot setback where residential adjacency standards require 136 feet, and a Rezoning (ZON-32514) from U (Undeveloped) [M (Medium Density Residential) General Plan Designation] to R-3 (Medium Density Residential) on 4.71 acres adjacent to the north side of Silver Sky Drive, approximately 500 feet east of Roland Wiley Road. The Planning Commission and staff recommended approval of the request.
08/19/09	A Parcel Map (PMP-35685) was submitted for technical review for two lots on 4.71 acres adjacent to the north side of Silver Sky Drive, approximately 450 feet east of Roland Wiley Road. Planning and Development staff review is pending action on VAR-35557 and SDR-35554 and related cases VAR-35555 and SDR-35552.
09/24/09	The Planning Commission recommended approval of companion item SDR-35554 concurrently with this application. The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #15/bts).
<i>Related Building Permits/Business Licenses</i>	
There are no related business licenses associated with this property.	
07/22/09	Civil Improvement Plans (#35314) have been submitted, and are currently under review.

<i>Pre-Application Meeting</i>	
07/30/09	A pre-application meeting was held on the indicated date. The following items were noted: • Re-mapping of subject site into two parcels. • Expunging of previous approvals. • A new Site Development Plan Review and Variance would be required for both new parcels.

<i>Neighborhood Meeting</i>	
09/23/09	A neighborhood meeting was held from 6:05 to 6:30 pm at the Silver Sky Assisted Living Facility located at 8220 Silver Sky Drive, Las Vegas, Nevada 89145. There was one attendee for the general public, two representatives from the applicant and one staff member (Planning and Development). The applicant gave a brief presentation describing the project. One member of the public was in attendance and had questions related to the commencement of construction and dust mitigation concerns.

<i>Field Check</i>	
08/20/09	Staff conducted a field check of the subject site with the following observations: • The location of existing single-family homes to the east of the subject site. • The subject site is undeveloped. • There is an existing Assisted Living Facility located west of the subject site.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	4.72 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	M (Medium Density Residential)	R-3 (Medium Density Residential)
North	R.O.W. (Right-of-Way) Summerlin Parkway	R.O.W. (Right-of-Way)	R.O.W. (Right-of-Way)
South	Single-Family Residences	MLA (Medium Low Attached Density Residential)	R-PD8 (Residential Planned Development – 8 Units per Acre)
East	Condominiums	MLA (Medium Low Attached Density Residential)	R-PD11 (Residential Planned Development – 11 Units per Acre)
West	Senior Citizen Apartments	M (Medium Density Residential)	R-PD17 (Residential Planned Development – 17 Units per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.050, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	205,603 SF	Y
Min. Setbacks • Front (south property line) • Side (west property line) • Side (east property line) • Rear (north property line)	20 Feet 5 Feet 5 Feet 20 Feet	10 Feet 5 Feet 5 Feet 5 Feet	N Y Y N
Min. Distance Between Buildings	10 Feet	24 Feet	Y
Max. Building Height	2 stories of 35 feet, whichever is less	2 stories or 24 feet	Y
Trash Enclosure	Screened	Screened	By Condition
Mech. Equipment	Screened	Screened	By Condition

ANALYSIS

The proposed Variance is to allow a 10-foot front yard setback where 20 feet is required and to allow a five-foot rear yard setback where 20 feet is required for a proposed 40-unit Senior Citizen Apartment development (the subject of a related item, SDR-35554) on 4.72 acres adjacent to the north side of Silver Sky Drive, approximately 500 feet east of Roland Wiley Drive. Although the applicant refers to the odd shape and topography of the subject site as justification for this request, this Variance is a direct result of the proposed subdivision of the subject site into two parcels for financial reasons, as stated in the applicant's justification letter. Because this request is the direct result of a self-imposed financial hardship and not the physical properties of the site, staff recommends denial.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented. The applicant states in its justification letter that the proposed subdivision of the existing lot is solely for financial purposes, resulting in the need for this Variance request. Adherence to the previously approved Site Development Plan Review (SDR-33010) and Variance (VAR-33012) would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There were additional protests submitted at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 34

SENATE DISTRICT 8

NOTICES MAILED 387 by City Clerk

APPROVALS 1

PROTESTS 4