



AGENDA MEMO

CITY COUNCIL MEETING OF: FEBRUARY 17, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-36808 - APPLICANT: THE SMOG SHOP, LLC - OWNER: JAMES E. AND NANCY BRACKIN

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to conditions.

Planning and Development

1. Conformance to the conditions for Special Use Permits (U-0094-96, U-0091-98) and Site Development Plan Reviews (SD-0010-98, SD-0011-98, AR-0016-96, SDR-2004 and SDR-5562).
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 551 parking spaces where 555 spaces are required for an 18.07-acre commercial center located at the northwest corner of Alexander Road and Rancho Drive. A 120 square-foot Auto Smog Check building is proposed to be placed on the subject site at 4005 North Rancho Drive. The facility would be constructed south of the existing convenience store in the parking area behind the existing landscape planter along Alexander Road. The overall shopping center site is parking impaired. As required parking on the site would be reduced as a result of addition of a new use, and the applicant's hardship is self-imposed, staff recommends denial of the Variance request. If this request is denied, the existing parking spaces needed for the proposed Auto Smog Check will not be available for this use, and therefore the use would not be able to operate in this location.

Issues:

- The subject site is parking impaired.
- The applicant is requesting to place an Auto Smog Check facility on the subject property, which requires additional parking spaces to be provided. The variance is required because the additional spaces cannot be provided.
- The proposed smog check structure will physically occupy two parking spaces; in addition, two spaces are needed for the Auto Smog Check use. As a result, a Variance is required for four additional spaces, or a 0.72% deviation from Title 19 standards across the entire commercial subdivision.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
10/16/96	The City Council approved a Special Use Permit (U-0094-96) for the off-premise sale of beer and wine, for the sale of gasoline in conjunction with a proposed 3,150 square-foot convenience store, and to allow a 5,340 square foot retail lease space at the northwest corner of Alexander Road and Rancho Drive. The Board of Zoning Adjustment and staff recommended approval.
02/07/97	A final subdivision map (FM-0052-96) for a one-lot commercial subdivision (Rancho Town & Country Shopping Center) on 18.58 acres at the northwest corner of Alexander Road and Rancho Drive was recorded. The Planning Commission had approved the Final Map on 03/28/96.
02/20/97	A deed was recorded for change of ownership on the subject property (0.98 acre).

04/23/98	The Planning Commission approved a Site Development Plan Review (SD-0010-98) and a waiver of perimeter landscape requirements for a proposed 200,510 square-foot, one-story commercial retail center on 18.58 acres located at the northwest corner of Alexander Road and Rancho Drive. Staff recommended approval.
07/11/02	Planning and Development Department staff administratively approved a Minor Site Development Plan Review (SDR-19751) for a proposed 45-foot tall Wireless Communication Facility, Stealth Design at 4005 North Rancho Drive.
05/06/04	Planning and Development Department staff administratively approved a Minor Site Development Plan Review (SDR-19794) for a slimline wireless communication facility at 4005 North Rancho Drive.
07/22/04	The Planning Commission denied a request for a Special Use Permit (SUP-4612) for an Open Air Vending/Transient Sales Lot on the subject site. Staff recommended denial.
08/27/09	Planning and Development Department staff administratively approved a Minor Site Development Plan Review (SDR-35466) for the replacement of three (3) antennas and addition of three (3) antennas (total of six) at the 41'-7" centerline of an existing 55-foot tall Wireless Communication Facility, Non-Stealth Design (Monopole) located at 4005 North Rancho Drive.
01/14/10	The Planning Commission recommended approval of companion item SUP-36809 concurrently with this application. The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #9/ss).
<i>Related Building Permits/Business Licenses</i>	
04/11/97	A building permit (#97007259) was issued for a convenience store building at 4005 North Rancho Drive. A final inspection was completed 08/20/97.
06/19/97	A building permit (#97012574) was issued for a sign at 4005 North Rancho Drive. A final inspection was completed 09/18/97.
06/25/97	A building permit (#97012999) was issued for a trash enclosure at 4005 North Rancho Drive. A final inspection was completed 08/04/97.
07/08/97	A building permit (#97013926) was issued for a sign at 4005 North Rancho Drive. A final inspection was completed 09/18/97.
08/19/97	A business license (C05-01829) was issued for sale of tobacco products at 4005 North Rancho Drive. The license is still active.
08/19/97	A business license (C15-00178) was issued for a convenience store at 4005 North Rancho Drive. The license is still active.
08/19/97	A business license (G01-01800) was issued for general business related gaming (slot machines) at 4005 North Rancho Drive. The license is still active.
08/19/97	A business license (L10-00169) was issued for the off-premise sale of beer and wine at 4005 North Rancho Drive. The license is still active.

09/08/97	A building permit (#97018476) was issued for two single-faced illuminated wall signs at 4005 North Rancho Drive. A final inspection was completed 09/16/97.
10/10/02	A building permit (#02018335) was issued for a wireless communication facility (monopole) with equipment shelter at 4005 North Rancho Drive. A final inspection was completed 01/03/03.
11/12/02	A building permit (#02020315) was issued for a city-design masonry wall at 4005 North Rancho Drive. A final inspection was completed 12/06/02.
08/16/04	A building permit (#04019042) was issued for collocation of three wireless antennas on an existing wireless communications facility at 4005 North Rancho Drive. A final inspection was completed 03/10/05.
09/10/09	Partial fees were paid for a building permit (B-147168) for collocation of three new wireless antennas and relocation of three existing antennas on an existing wireless communications facility at 4005 North Rancho Drive. The permit requires additional payment of fees prior to issuance.
<i>Pre-Application Meeting</i>	
11/16/09	Research on previously approved land use approvals showed that the overall site is parking impaired. The applicant was informed that a Variance would be required for the additional spaces needed for the Smog Shop use. Submittal requirements for Special Use Permit and Variance applications were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	
<i>Field Check</i>	
12/08/09	Staff conducted a site visit and observed the following: • The convenience store pad is well-maintained; • There is a clothing donation bin in the area proposed for the Auto Smog Check facility; • Several pad sites within the commercial subdivision are undeveloped with no additional parking provided for other uses.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.98 (shopping center is 18.07 acres)

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Service Station with Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
North	Undeveloped	SC (Service Commercial)	C-1 (Limited Commercial)

South	Undeveloped	GC (General Commercial)	C-2 (General Commercial)
East	Undeveloped	SC (Service Commercial)	C-2 (General Commercial)
West	Undeveloped	GC (General Commercial)	C-2 (General Commercial)

<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			
A-O Airport Overlay District	X		Y
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 19.10, the following parking standards apply:

<i>Parking Requirements – Parking Impaired Development</i>		
	Spaces	Compliance
Current number of spaces provided (18.07 acres)	553	
Spaces to be occupied by proposed Auto Smog Check building	2	
Spaces to be occupied by smog-serviced vehicle	1	
Spaces required for Auto Smog Check use	1	
Number of additional spaces required for proposed Auto Smog Check use (<i>1 space, plus 3 spaces needed for proposed building and servicing of vehicles</i>)	4	
Total number of spaces required (18.07 acres)	555	
Proposed number of spaces provided (18.07 acres)	551	
Percent Deviation	0.72%	N

ANALYSIS

Parking for the overall commercial subdivision currently consists of 553 parking spaces. Because city parking requirements were amended following approval of the site, the site is considered to be parking impaired. Per Title 19.10, for expansion of parking-impaired developments that requires an increase in the number of parking spaces, including the construction of new buildings, only the increased number of parking spaces shall be required. The addition of a 120 square-foot Auto Smog Check facility on the northwest corner of Rancho

Drive and Alexander Road will require four additional spaces—two will be physically occupied by the structure, one will be needed for servicing vehicles, and one is required for the use. None of these spaces can be provided by the applicant; therefore, approval of a Variance is necessary for use of the Auto Smog Check facility.

The Variance is for the four additional spaces needed to accommodate the use. If this request is approved, only 551 spaces can be provided. As a result, the required number of spaces overall is 555. The Variance request represents only a 0.72% deviation from the requirement. However, the hardship borne by the applicant is self-imposed, since the site can currently meet parking requirements.

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 19.18.070(L) 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, in that the applicant has created a self-imposed hardship by introducing a use on the site that requires additional parking spaces without providing additional spaces for that use. Providing additional spaces 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 12

NOTICES MAILED 382 by City Clerk

APPROVALS 6

PROTESTS 2