

**AGENDA MEMO****CITY COUNCIL MEETING DATE: MARCH 3, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: VAR-36946 - APPLICANT/OWNER: METRO SKY POINTE, LLC**

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**\*\* CONDITIONS \*\***

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

**Planning and Development**

1. Conformance to the conditions for Special Use Permit (SUP-18927) and Site Development Plan Review (SDR-18926), except as amended herein.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-36941) shall be required, if approved.
3. This approval shall be void two years from the date of final approval, unless a building permit 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.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow 132 parking spaces where 153 are required for a proposed 10,892 square-foot restaurant on a 2.46 acre lot at the northwest corner of Sky Pointe Drive and Cimarron Road. This represents a 14% deviation from standard. Staff cannot support the Variance request, as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site; therefore, staff is recommending denial of this request. If this application is denied, an associated request for Site Development Plan Review (SDR-36941) must also be denied, and the site must comply with the previously approved Site Development Plan Review (SDR-18926).

**ISSUES**

- Approval of this request is necessary for the approval of a companion Site Development Plan Review (SDR-36941) for a proposed 10,892 square-foot restaurant.
- The subject site is part of a commercial subdivision with shared access and parking throughout.

**BACKGROUND INFORMATION**

| <i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i> |                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/09/98                                                                  | City Council approved a Rezoning (Z-0036-98) to change the zoning from U (Undeveloped) to PD (Planned Development) for property located on the south side of Deer Springs Way, west of Conough Lane. Planning Commission and staff recommended denial. |
| 09/14/98                                                                  | City Council approved a General Plan Amendment (GPA-0030-98), which established the detailed land-use plan for Town Center. Planning Commission and staff recommended approval.                                                                        |
| 12/07/98                                                                  | City Council approved a Rezoning (Z-0076-98) from P-D (Planned Development) to T-C (Town Center) on this site. Planning Commission and staff recommended approval.                                                                                     |
| 07/24/03                                                                  | Planning Commission approved a Site Development Plan Review (SDR-2563) for a proposed 5,400 square foot retail building on 2.46 acres adjacent to the corner of Sky Pointe Drive and North Cimarron Road. Staff recommended approval.                  |
| 03/07/07                                                                  | City Council approved a Site Development Plan Review (SDR-18926) for a 9,831 square-foot restaurant and retail building at Sky Pointe Drive and Cimarron Road. Planning Commission and staff recommended approval.                                     |
| 03/07/07                                                                  | City Council approved a Special Use Permit (SUP-18927) for a Restaurant with Service Bar at Sky Pointe Drive and Cimarron Road. Planning Commission and staff recommended approval.                                                                    |
| GK                                                                        |                                                                                                                                                                                                                                                        |

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|                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 04/15/09                                                                       | City Council approved an Extension of Time (EOT-33666) of an approved Site Development Plan Review (SDR-18926) for a 9,831 square-foot restaurant and retail building at Sky Pointe Drive and Cimarron Road. Staff recommended approval.                                                                                                                                                                                                                                     |
| 04/15/09                                                                       | City Council approved an Extension of Time (EOT-33667) of an approved Special Use Permit (SUP-18927) for a Restaurant with Service Bar at Sky Pointe Drive and Cimarron Road. Staff recommended approval.                                                                                                                                                                                                                                                                    |
| 01/28/10                                                                       | The Planning Commission recommended approval of companion item SDR-36941 concurrently with this application.<br><br>The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #22/gk).                                                                                                                                                                                                                                                                         |
| <b><i>Related Building Permits/Business Licenses</i></b>                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| There are no related Building Permits/Business Licenses at this property.      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b><i>Pre-Application Meeting</i></b>                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 12/01/09                                                                       | A pre-application meeting was held on the indicated date. The following items were discussed at the meeting: <ul style="list-style-type: none"> <li>• A Major Amendment to the approved Site Development Plan Review (SDR-18926) is required, as the subject building is being expanded by over 10%.</li> <li>• A Variance is required to allow 132 spaces where 153 spaces are required.</li> <li>• Waivers of the Town Center Landscape Standards are required.</li> </ul> |
| <b><i>Neighborhood Meeting</i></b>                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| A neighborhood meeting is not required for this application, nor was one held. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

|                           |                                                                                                                                                                                          |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Field Check</i></b> |                                                                                                                                                                                          |
| 12/22/09                  | A field check was completed on the indicated date. The following items were noted: <ul style="list-style-type: none"> <li>• Staff observed a well maintained undeveloped lot.</li> </ul> |

|                                              |            |
|----------------------------------------------|------------|
| <b><i>Details of Application Request</i></b> |            |
| <b><i>Site Area</i></b>                      |            |
| Net Acres                                    | 1.73 acres |

| Surrounding Property | Existing Land Use         | Planned Land Use           | Existing Zoning   |
|----------------------|---------------------------|----------------------------|-------------------|
| Subject Property     | Undeveloped               | SX-TC (Suburban Mixed-Use) | T-C (Town Center) |
| North                | Single-family Residential | SX-TC (Suburban Mixed-Use) | T-C (Town Center) |

GK

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|       |                           |                                     |                                |
|-------|---------------------------|-------------------------------------|--------------------------------|
| South | Convenience Store         | SX-TC (Suburban Mixed-Use)          | T-C (Town Center)              |
| East  | Single-family Residential | ML (Medium Low Density Residential) | R-CL (Residential Compact Lot) |
| West  | US-95                     | MS-TC (Main Street Mixed-Use)       | T-C (Town Center)              |

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

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

| Parking Requirement                         |                                     |               |         |              |          |              |            |
|---------------------------------------------|-------------------------------------|---------------|---------|--------------|----------|--------------|------------|
| Use                                         | Gross Floor Area or Number of Units | Required      |         |              | Provided |              | Compliance |
|                                             |                                     | Parking Ratio | Parking |              | Parking  |              |            |
|                                             |                                     |               | Regular | Handi-capped | Regular  | Handi-capped |            |
| Restaurant, Dining Room and Outside Dining  | 4,200 SF                            | 1:50          | 84      |              |          |              |            |
| Restaurant, Remaining Gross Floor Area      | 7,442 SF                            | 1:200         | 38      |              |          |              |            |
| General Retail Sales (Less than 25,000 SF.) | 5,400 SF                            | 1:175         | 31      |              |          |              |            |
| Subtotal                                    |                                     |               | 147     | 6            | 124      | 8            |            |
| TOTAL                                       |                                     |               | 153     |              | 132      |              | N          |
| Percent Deviation                           |                                     |               |         |              | 14%      |              |            |

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## **ANALYSIS**

A total of 153 parking spaces are required per Title 19.10 Parking Standards for the proposed 10,892 square-foot restaurant and the existing 5,400 square-foot general retail building, as approved by Site Development Plan Review (SDR-18926). The proposal includes a 750 square-foot outdoor patio dining area which is not included in the overall square-footage of the 10,892 square-foot building, but is calculated as part of the parking analysis. The site plan depicts 132 parking spaces, including eight handicap spaces, which is a 14% deviation from standard. The parking provided on this site is inadequate to meet the needs of the proposed development. Alternative site design or a project of smaller scope would alleviate the need for this Variance; therefore, staff is recommending denial of the request, as the applicant has created a self-imposed hardship by proposing to overbuild the site.

## **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, in that the applicant has created a self-imposed hardship. Alternative design of the site with a reduced building footprint 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.

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**PLANNING COMMISSION ACTION**

The Planning Commission added condition #3 to which the applicant agreed.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

17

**NOTICES MAILED**

508 (By City Clerk)

**APPROVALS**

2

**PROTESTS**

1