

**AGENDA MEMO****CITY COUNCIL MEETING DATE: MARCH 3, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: SDR-36941 - APPLICANT/OWNER: METRO SKY POINTE, LLC**

**** CONDITIONS ****

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

Planning and Development

1. Conformance to the conditions of approval 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 Variance (VAR-36946) 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 for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All development shall be in conformance with the site plan and landscape plan, date stamped 12/22/09, floor plan, date stamped 12/15/09, and elevation plans, date stamped 01/06/10, except as amended by conditions herein.
5. A Waiver from Town Center Development Standards is hereby approved to allow zero-foot amenity zones separating the sidewalk from the back of street curb along Sky Pointe Drive and Cimarron Road where a four-foot and five-foot amenity zone is the minimum required, respectively.
6. A Waiver from Title 19.12.040(E) is hereby approved to allow a zero-foot landscape buffer separating existing utility boxes and the sidewalk along Sky Pointe Drive and Cimarron Road where a three-foot landscape buffer is the minimum required.
7. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications.

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8. Pre-planting and post-planting landscape inspections are required to ensure the appropriate plant material, location, size of planters, and landscape plans are being utilized. The Planning and Development Department must be contacted to schedule an inspection prior to the start of the landscape installation and after the landscape installation is completed. A certificate of occupancy will not be issued or the final inspection will not be approved until the landscape inspections have been completed.
9. Reflective glazing at the pedestrian level is prohibited. Glazing above the pedestrian level shall be limited to a maximum reflectance rating of 22% (as defined by the National Institute of Standards and Technology).
10. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
11. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
12. Parking lot lighting standards shall be no more than 30 feet in height and shall utilize downward-directed lights with full cut-off luminaries. Lighting on the exterior of buildings shall be shielded and shall be downward-directed. Non-residential property lighting shall be directed away from residential property or screened, and shall not create fugitive lighting on adjacent properties.
13. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
14. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

15. Construct all incomplete half-street improvements on Cimarron Road adjacent to this site concurrent with development of this site.
16. Remove all substandard public street improvements, if any, adjacent to this site and replace with new improvements meeting current Town Center Design Standards as amended by conditions herein, concurrent with on-site development activities. All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site.

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17. The developer shall construct raised median islands and appropriate pavement markings on Cimarron Road from Sky Pointe Drive to Deer Springs Way. The medians shall accommodate dual left turn lanes on Cimarron Road southbound to Sky Point Drive and a single left turn lane on Cimarron Road northbound to this site. An additional median shall be constructed from the driveway accessing this site on Cimarron Road to Deer Springs Way. The applicant shall coordinate the median island geometrics with the Traffic Engineering Section of the Department of Public Works.
18. Unless otherwise allowed by the City Engineer, construct sidewalk, where such does not exist, on at least one side of all access drives connecting this site to the adjacent public streets concurrent with development of this site. The connecting sidewalk shall extend from the sidewalk on the public street to the first intersection of the on-site roadway network and shall be terminated on-site with a handicap ramp.
19. All landscaping, retaining walls, and private installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections. This site plan proposes relocating the existing driveway on Cimarron Road closer to the north. If the existing driveway is not used, it shall be replaced with curb, gutter, and sidewalk, and all existing above ground facilities over 24" in height which are currently located in the proposed new Site Visibility Restriction Zone (SVRZ), due to the placement of this new driveway location, shall be relocated so they are no longer in conflict with the proposed new SVRZs.
20. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed use of this facility. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services.
21. No permanent structures, trees or shrubs over 3 feet tall shall be placed within the existing 20 foot wide Public Sewer Easement along the north property line dedicated per Plat Book 107, Page 11.
22. This pad site must always allow for the perpetual common access between the various parcels/owners within the Cimarron Springs Ranch (Commercial Subdivision) area.
23. Landscape and maintain all unimproved right(s)-of-way on Sky Pointe Drive and Cimarron Road adjacent to this site.
24. Submit an Encroachment Agreement for all landscaping and private improvements located in the Sky Pointe Drive and Cimarron Road public rights-of-way adjacent to this site prior to occupancy of this site.

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25. An update to the previously approved Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any grading or building permits or submittal of any construction drawings whichever may occur first. Provide and improve all drainageways as recommended in the approved drainage plan/study update.
26. Site development to comply with all applicable conditions of approval for the Cimarron Springs Ranch (Commercial Subdivision), Zoning Reclassification Z-0076-98 and all other applicable site-related actions.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The subject site consists of an undeveloped 1.73 acre lot at the northwest corner of Sky Pointe Drive and Cimarron Road. This is a request for a Major Amendment to an approved Site Development Plan Review (SDR-18926) for a proposed 10,892 square-foot restaurant where a 9,831 square-foot restaurant and retail building was previously approved. This request will increase the building area, required landscaping, and required parking; therefore, a Major Amendment to the approved Site Development Plan Review (SDR-18926) is required. The applicant is requesting, as part of this review, Waivers of the Town Center Streetscape Standards. An associated request has been submitted for a Variance (VAR-36946) to allow 132 parking spaces where 153 spaces are required. Staff cannot support the request for a Major Amendment and subsequent Variance, as the applicant 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 Variance (VAR-36946) must also be denied, and the site must comply with the previously approved Site Development Plan Review (SDR-18926).

ISSUES

- Approval of a companion Variance (VAR-36946) to allow 132 parking spaces where 153 spaces are required is necessary for this request to be approved.
- The applicant is requesting a Waiver to allow existing utility boxes to be set back zero-feet from the public right-of-way with no landscaping where a three-foot landscape buffer is required along Cimarron Road and Sky Pointe Drive.
- The applicant is requesting a Waiver to allow zero-foot wide amenity zones between the sidewalk and back of street curb where five feet is required along Cimarron Road and four feet is required along Sky Pointe Drive.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</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.

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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.
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 VAR-36946 concurrently with this application. The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #23/gk).
<i>Related Building Permits/Business Licenses</i>	
There are no related Building Permits/Business Licenses at this property.	
<i>Pre-Application Meeting</i>	
12/01/09	A pre-application meeting was held on the indicated date. The following items were discussed at the meeting: • A Major Amendment to the approved Site Development Plan Review (SDR-18926) is required, as the subject building is being expanded by over 10%. • A Variance is required to allow 132 spaces where 153 spaces are required. • Waivers of the Town Center Landscape Standards are required.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
12/22/09	A field check was completed on the indicated date. The following items were noted:

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| | <ul style="list-style-type: none"> Staff observed a well maintained undeveloped lot. |
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<i>Details of Application Request</i>	
<i>Site Area</i>	
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)
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>
Special Area Plan			
T-C Town Center District	X		N
<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 Town Center Commercial Development Standards – Table 2***

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	1.73 Acres	N/A
Min. Lot Width	N/A	198 Feet	N/A
Min. Setbacks			
• Front	15 Feet	15 Feet	Y
• Side	10 Feet	134 Feet	Y
• Corner	15 Feet	15 Feet	Y
• Rear	20 Feet	183 Feet	Y
Max. Building Height	Two Stories	One Story or 26 Feet	Y
			GK

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Trash Enclosure	Screened	Screened, Gated with a Trellis	Y
Mech. Equipment	Screened	Screened	Y

Per Title 19.08.060 the following residential adjacency standards apply:

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	78 Feet	183 Feet	Y
Trash Enclosure	50 Feet	175 Feet	Y

Pursuant to Title 19.12 Landscape and Buffer Standards and Town Center Landscape Requirements

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Parking Area	1 Tree/6 Spaces	17 Trees	21 Trees	Y
Buffer:				
Min. Trees				
Front	1 Tree/30 Linear Feet	7 Trees	7 Trees	Y
Corner Side	1 Tree/30 Linear Feet	11 Trees	11 Trees	Y
Rear	1 Tree/20 Linear Feet	13 Trees	24 Trees	Y
TOTAL (Perimeter Trees)		31 Trees	42 Trees	Y
Min. Zone Width				
Front	15 Feet		15 Feet	Y
Corner Side	15 Feet		15 Feet	Y
Rear	8 Feet		10 Feet	Y
Wall Height	6 Feet		6-Foot Existing Wall	Y

The following streetscape standards apply within Town Center:

Streetscape Standards	Required	Provided	Compliance
Town Center Loop Road – 90-Foot (Sky Pointe Drive)	4-Foot Amenity Zone 5-Foot Sidewalk 15-Foot Landscape Buffer	- Zero-Foot Amenity Zone 5-Foot Wide Sidewalk 15-Foot Landscape Buffer	N

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Town Center Collector – 80-Foot (Cimarron Road)	• 5-Foot Amenity Zone • 5-Foot Sidewalk • 15-Foot Landscape Buffer	• Zero-Foot Amenity Zone • 5-Foot Wide Sidewalk • 15-Foot Landscape Buffer	N
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<i>Open Space – Pursuant to Title 19.06.110.E</i>			
<i>Total Landscape Area</i>	<i>Required Percent</i>	<i>Provided Percent</i>	<i>Compliance</i>
18,298 SF	20%	24%	Y

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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	Previously Approved (SDR-18926)	Proposed
Size	9,831 SF	10,892 SF
Height	24 Feet	26 Feet
Setbacks	Front – 20 Feet Corner Side – 15 Feet Rear – 185 Feet	Front – 15 Feet Corner Side – 15 Feet Rear – 183 Feet
Landscape Buffer Area	Front – 15 Feet Corner Side – 15 Feet Rear – 8 Feet	Front – 15 Feet Corner Side – 15 Feet Rear – 10 Feet
Perimeter Buffer Trees	Required – 31 Trees Provided – 46 Trees	Required – 31 Trees Provided – 42 Trees
Parking Lot Trees	Required – 24 Trees Provided – 24 Trees	Required – 17 Trees Provided – 21 Trees
Total Trees	Required – 55 Trees Provided – 70 Trees	Required – 48 Trees Provided – 63 Trees
Parking	Required – 112 Provided – 115	Required – 153 Provided – 132
Waivers	None	To allow zero-foot wide amenity zones along Sky Pointe Drive and Cimarron Road where 4 and 5 feet are required. To allow existing utility boxes to be set back zero-feet from the public right-of-way.

Waivers		
Requirement	Request	Staff Recommendation
3 Foot Landscape Buffer	To allow existing utility boxes to be set back zero-feet from the public right-of-way	Denial
4 Foot Amenity Zone	To allow a zero-foot wide amenity zone along Sky Pointe Drive	Denial
5 Foot Amenity Zone	To allow a zero-foot wide amenity zone along Cimarron Road	Denial

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ANALYSIS

The applicant is requesting a Major Amendment to a previously approved Site Development Plan Review (SDR-18926) for a 10,892 square-foot restaurant where a 9,831 square-foot restaurant and general retail building was previously approved on a 1.73 acre lot at the northwest corner of Sky Pointe Drive and Cimarron Road.

Pursuant to Title 19.18.050 (H), the subject Major Amendment to a previously approved Site Development Plan Review (SDR-18926) is required, as the proposed building has increased approximately 10% in floor area, from 9,831 square feet to 10,892 square feet. The proposal also 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 in the parking analysis.

The overall site is accessed by Sky Pointe Drive, a 90-foot Town Center Loop Road and Cimarron Road, an 80-foot Town Center Collector Street, as designated by the Town Center Development Standards. The site provides adequate access and circulation for pedestrians and vehicles. The submitted elevations indicate a proposed one-story building with a height of 26 feet. The applicant is proposing to utilize stucco for the main body of the structure, with accent red brick and black tiles located around the windows and base of the structure. Also, decorative lighting and awnings will be provided over the windows. The building materials are consistent with surrounding structures in the area.

The site complies with all Title 19 requirements with the exception of required parking. The applicant is required to provide a total of 153 parking spaces per Title 19.10 Parking Standards for the proposed commercial subdivision, which includes an existing building to the northwest. The site plan depicts 132 parking spaces, including eight handicap spaces, which is a 14% deviation from standard. A companion Variance (VAR-36946) has been submitted to address this issue.

The site also complies with all Town Center Development Standards with the exception of Streetscape Standards. Per the Town Center Streetscape Design Guidelines, Town Center Loop Roads are required to include a four-foot amenity zone between the back of curb and the sidewalk and Town Center Collector Streets are required to include a five-foot amenity zone. The proposed landscape plan depicts a zero-foot amenity zone along Sky Pointe Drive, which is a four-foot deviation from standard and a zero-foot amenity zone along Cimarron Road, which is a five-foot deviation from standard. The applicant has requested Waivers to address these issues.

Per Title 19.12.040(E) all utility boxes shall be set back a sufficient distance so that a minimum of three feet of landscaping separates the utility structure from the right-of-way or sidewalk. The site contains existing utility boxes directly adjacent to the five foot sidewalk along Cimarron Road and Sky Pointe Drive. The applicant has requested a Waiver to address this issue.

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The site, as proposed, is overbuilt and will not meet the minimum required parking of Title 19.04. Also, the deficiency of required amenity zones is not consistent with the required Town Center Streetscape that is present along both Cimarron Road and Sky Pointe Drive, and will not mitigate the adverse visual and noise impacts to adjacent properties; therefore, staff cannot support the requested Waivers for landscaping, or associated Variance for parking and is recommending denial.

FINDINGS

In order to approve a Site Development Plan application, per Title 19.18.050 the Planning Commission and/or City Council must affirm the following:

1.The proposed development is compatible with adjacent development and development in the area;

The proposed changes to the overall site plan are inconsistent with Town Center Development Standards. The site as designed will not allow for required streetscape improvements along Sky Pointe Drive and Cimarron Drive, nor will it meet the minimum required parking of Title 19.04, which is inconsistent with other development in the vicinity.

2.The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;

The site, as proposed, will not meet the minimum required parking of Title 19.04, and the elimination of required streetscape amenity zones will not mitigate the adverse visual and noise impacts to adjacent properties. The inconsistencies with standards are a result of site design and not the physical characteristics of the site itself, and therefore cannot be supported.

3.Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;

The site is accessed by Sky Pointe Drive, a 90-foot Town Center Loop Road and Cimarron Road, an 80-foot Town Center Collector Street as designated by the Town Center Development Standards. The site provides adequate access and circulation for pedestrians and vehicles.

4.Building and landscape materials are appropriate for the area and for the City;

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The building materials are appropriate for the area and the city. The applicant is requesting Waivers to allow zero-foot amenity zones where four feet is required along Sky Pointe Drive and five feet is required along Cimarron Road. The elimination of required streetscape amenity zones will not mitigate the adverse visual and noise impacts to adjacent properties.

5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;

The building elevations depict design and materials that will provide an aesthetically acceptable building and are compatible with the neighboring properties.

6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.

The proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect health, safety, and general welfare.

PLANNING COMMISSION ACTION

The applicant agreed to all conditions.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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NOTICES MAILED 508 (By City Clerk)

APPROVALS 2

PROTESTS 1