



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: MAY 16, 2012

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: EVAPS, LLC, ET AL

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-44710	Staff recommends DENIAL, if approved subject to conditions:	SDR-44708
SDR-44708	Staff recommends DENIAL, if approved subject to conditions:	VAR-44710

**** CONDITIONS ****

VAR-44710 CONDITIONS

Planning

1. The applicant shall submit the twenty-five space Parking Lease to the City Attorney's Office for approval as to form and an acceptable duration to ensure adequate parking.
2. Conformance to the approved conditions for Site Development Plan Review (SDR-39121) and Variance (VAR-39122).
3. Approval of and conformance to the conditions of approval for Site Development Plan Review (SDR-44708).
4. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.

Conditions Page Two
May 16, 2012 - City Council Meeting

6. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SDR-44708 CONDITIONS

Planning

1. Site Development Plan Review (SDR-41047) and Variance (VAR-41054) are hereby expunged.
2. Conformance to the approved conditions for Site Development Plan Review (SDR-39121) and Variance (VAR-39122).
3. Approval of, and conformance to the conditions of approval for Variance (VAR-44710).
4. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. All development shall be in conformance with the site plan and building elevations, date stamped 02/23/12, except as amended by conditions herein.
6. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
8. A revised site plan shall be submitted to and approved by the Department of Planning Department, prior to the time application is made for a building permit, to reflect the changes herein.
9. 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.

Conditions Page Three
May 16, 2012 - City Council Meeting

10. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

11. Site development to comply with all previously approved conditions of approval for SDR-39121 and all other applicable site-related actions.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is the second major amendment to the approved Site Development Plan (SDR-39121) that allowed a proposed five-story, 55,132 square-foot office building with subterranean parking levels. This development proposal was concurrently approved with a Variance (VAR-39122) to allow no front, corner side, and side yard setbacks and waivers to the required landscape buffer requirements that have not been exercised, but remain active. Since that time, there has been an approved amendment (SDR-41047) that removed one level of parking, which was accompanied by a Variance (VAR-41054) to allow 160 parking spaces where 184 are required. The proposed amendment will retain the approved building footprint, but will remove one subterranean parking level and one floor of office space for a four-story, 73-foot tall building with 46,800 square-feet of office space. This proposal will require a Variance to allow 100 parking spaces where 156 spaces are required; because of the deficient parking staff recommends denial of the requested Site Development Plan Review and the accompanying Variance. If denied, the current entitlements (VAR-39122, SDR-39121, VAR-41054, and SDR-41047) will apply.

ISSUES

- If approved, the previous amendment (SDR-41047) and related Variance for reduced onsite parking (VAR-41054) will be expunged.
- The proposed building height is reduced from five stories/120 feet to four stories/73 feet.
- The proposed building gross floor area is reduced from 55,132 square-feet to 46,800 square-feet.
- A previous Variance (VAR-40154) was approved for a 13% parking deficiency (160 spaces where 184 are required), but has now been increased to a 35% parking deficiency (100 spaces where 156 are required).

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
07/23/10	The technical review for a Reversionary Map (PMP-38638) was approved by Planning and Development staff for a reversion to acreage for four lots, approximately .65 acres. The map was recorded on 9/17/10.

Staff Report Page Two
May 16, 2012 - City Council Meeting

12/01/10	The City Council approved the request for a Site Development Plan Review (SDR-39121) for a proposed five-story, 120-foot tall, 55,132 square-foot Office building with Waivers of the perimeter landscape buffer width requirements to allow zero-foot buffers where 15 feet is required on the north and east perimeters and eight feet is required on the south and west perimeters and a related Variance (VAR-39122) to allow zero-foot setbacks where a 10-foot side yard, 15-foot corner side yard, and 20-foot front and rear yard setbacks are required, and to allow 86% lot coverage where 50% lot coverage is the maximum allowed on 0.65 acres at 400 South 7th Street. The Planning Commission recommended approval with staff recommending denial.
07/20/11	The City Council approved the request for a Major Amendment (SDR-41047) to an approved Site Development Plan Review (SDR-39121) to eliminate one level of required parking consisting of 24 spaces from an underground garage and a related Variance (VAR-41054) to allow 160 parking spaces where 184 spaces are required at 400 South 7th Street. The Planning Commission recommended approval with staff recommending denial.
04/10/12	The Planning Commission voted (6-0) to recommend APPROVAL of companion items VAR—44710 and SDR-44708 (PC Agenda Items 27-28/mh).

Most Recent Change of Ownership

03/02/10	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

11/09/11	A demolition permit (#200792) was issued for the removal of two structures at 400 South 7 th Street. This permit received final inspection on 02/15/12.
06/27/11	A building permit (#190638) for onsite improvements to the subject site has been submitted, but is currently under review and has not been issued.

Pre-Application Meeting

02/16/12	Staff reviewed the requirements for a major amendment to remove one parking level and one office floor of an approved entitlement for a proposed office development. It was determined that a Variance request would also be required.
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Neighborhood Meeting

A neighborhood meeting is not required, nor was one held.

Field Check

03/01/12	Staff visited the site and found it in the stages of clearing and grading. It is noted that the site has restricted access and is clean and maintained.
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Staff Report Page Three
May 16, 2012 - City Council Meeting

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.64

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Undeveloped	C (Commercial)	C-1 (Limited Commercial)
North	Apartments	C (Commercial)	C-1 (Limited Commercial)
South	Undeveloped	C (Commercial)	R-3 (Medium Density Residential)
East	Public School, Secondary	PF (Public Facilities)	C-V (Civic)
West	Office, Other Than Listed	C (Commercial)	C-1 (Limited Commercial)

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
H (Historic Designation)	X		Y
Live/Work Overlay District	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to 19.08, the following standards apply:

<i>Standard</i>	<i>Approved (SDR-39121 & VAR-39122)</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front	0 Feet	10 Feet	Y
• Side	0 Feet	10 Feet	Y
• Corner	0 Feet	15 Feet	Y
• Rear	0 Feet	20 Feet	Y
Max. Lot Coverage	50 %	86 %	Y
Building Height	120 Feet (96 Feet to TOS)	73 Feet	Y

MH

Staff Report Page Four
May 16, 2012 - City Council Meeting

Pursuant to Title 19.08, the following standards apply:

Landscaping and Open Space Standards				
Standards	Approved (SDR-39121)		Provided	Compliance
	Ratio	Trees		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	0 Trees	0 Trees	Y
• South	1 Tree / 30 Linear Feet	0 Trees	0 Trees	Y
• East	1 Tree / 20 Linear Feet	0 Trees	0 Trees	Y
• West	1 Tree / 0 Linear Feet	0 Trees	0 Trees	Y
LANDSCAPE BUFFER WIDTHS				
Min. Zone Width				
• North	0 Feet		0 Feet	Y
• South	0 Feet		0 Feet	Y
• East	0 Feet		0 Feet	Y
• West	0 Feet		0 Feet	Y

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Approved (VAR-41054)		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Office, Other Than Listed	46,800 SF	1:300 SF					
TOTAL SPACES REQUIRED			156		100		
Regular and Handicap Spaces Required			152	4	96	4	N
Percent Deviation			35 %				

ANALYSIS

The applicant proposes to amend the originally approved Site Development Plan Review (SDR-31921) by eliminating one more subterranean parking level and one floor of office spaces. The most recent entitlements, VAR-41054 and SDR-41047, removed one level of subterranean parking, but retained the original gross floor area and building height. The resulting reduction in provided parking area was allowed by the Variance (VAR-41054) to allow 160 parking spaces where 184 spaces are required. Due to financial circumstances, the applicant will not be utilizing the subterranean parking levels as originally proposed; therefore, this requested amendment seeks a reduction in building area and height to offset the increased parking deficiency. Specifically, the proposed plans create a 56 parking space deficiency where the approved

Staff Report Page Five
May 16, 2012 - City Council Meeting

Variance (VAR-41054) had allowed a parking deficiency of 24 spaces. The building footprint and setbacks remain consistent with the original approvals and the applicable entitlements for no building setbacks and landscape buffers will remain. Because this proposal depends on the approval of a Variance that is self-imposed and preferential in nature, staff recommends denial of the requested amendments to the approved development.

FINDINGS (VAR-44710)

In accordance with the provisions of Title 19.16.140(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 19.16.140(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 reducing the amount of proposed parking with the reduction in the provided onsite parking. The alternative of retaining the subterranean parking garage, as approved, would allow conformance to the Title 19.12 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.

FINDINGS (SDR-44708)

In order to approve a Site Development Plan application, per Title 19.16.100(E) 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 development is not compatible with adjacent development, as it will be severely parking deficient, as is evidenced by the requested variance.

Staff Report Page Six
May 16, 2012 - City Council Meeting

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 proposed amendment to the approved office building is not consistent with the Title 19.12 requirements, as it creates a substantial parking deficiency. The current entitlements have made the appropriate accommodations for development requirements.

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

Site access and circulation remain consistent with the original Site Development Plan Review (SDR-39121) and will not negatively impact adjacent roadways or neighborhood traffic.

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

The building and landscape materials remain consistent with what has been approved by the original Site Development Plan Review SDR-39121.

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 and design characteristics remain consistent with the original Site Development Plan Review approval SDR-39121, although reduced in stature from a five-story structure to a four-story structure.

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

If approved, the proposed development will be subject to inspection during both building construction and business licensing and will, therefore not compromise the public health, safety and general welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

36

NOTICES MAILED

129 (By City Clerk)

APPROVALS

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PROTESTS

1