City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: FEBRUARY 7, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-18312 - APPLICANT: T-MOBILE USA, INC - OWNER: INTERNATIONAL CHURCH OF THE FOURSQUARE GOSPEL

** CONDITIONS **

Staff recommends DENIAL. The Planning Commission (6-1/sd) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-18314) shall be required.

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.

3. The approval of the Variance is for a wireless communication facility, stealth design, to not exceed a height of 60 feet.

** STAFF REPORT **

PROJECT DESCRIPTION

This is a request for a Variance to allow a wireless communications facility, stealth design, to have a minimum residential adjacency of 184 feet from the rear property line where a 240-foot minimum setback is required.

A companion Special Use Permit has been filed with this application as the proposal does not meet the minimum conditions for a wireless communications facility, stealth design.

BACKGROUND INFORMATION

Related Relevant City Actions by P&D, Fire, Bldg., etc.	
11/15/95	The City Council approved a General Plan Amendment (GPA-41-95) from L (Low Density Residential) and ML (Medium-Low Density Residential) to PF (Public Facility). The application expired.
11/15/95	The City Council approved a Rezoning (Z-74-95) from N-U (Non-Urban) to C-V (Civic) This application expired November 15, 1996.
5/26/98	The City Council approved a General Plan Amendment (GPA-8-98) from L (Low Density Residential) to PF (Public Facility). Planning Commission and Staff recommended approval.
5/26/98	The City Council approved the request for a Rezoning (Z-20-98) on property located on the south side of Alexander Road, approximately 680 feet east of Cimarron Road from U (Undeveloped) Zone. Planning Commission and Staff recommended approval. Planning Commission and Staff recommended approval.
01/11/07	The Planning Commission recommended approval of companion item SUP-18314 concurrently with this application. The Planning Commission voted 6-1/sd to recommend APPROVAL (PC Agenda Item #28/mh).
Related Building Permits/Business Licenses	
NA	NA
Pre-Application Meeting	
11/06/06	Staff explained the requirements for this application as a Special Use Permit is required in addition to a Variance from Title 19.08 residential adjacency standards.
Neighborhood Meeting	
NA	A neighborhood meeting was not held nor was one required.

Details of Application Request
Site Area

Net Acres	1.75 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Church Parking Lot	P-F (Public Facilities)	C-V (Civic) Zone
North	Single Family Dwellings	L (Low Density)	R-1 (Single Family Residential) Zone
South	Single Family Dwellings	ML (Low Density)	R-CL (Residential-Compact Lot) Zone
East	Single Family Dwellings	L (Low Density)	R-PD5 (Residential-Planned Development, 5 Units per Acre) Zone
West	Single Family Dwellings	L (Low Density)	R-PD5 (Residential-Planned Development, 5 Units per Acre) Zone

Special Districts/Zones	*Yes*	*No*	*Compliance*
Special Area Plan		X	NA
Special Districts/Zones	***Yes***	***No***	***Compliance***
Special Purpose and Overlay Districts			
C-V Civic District	X		Y
Trails	X		Y
Rural Preservation Overlay District		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

C-V Civic District:

The existing parking lot and neighboring church are in compliance with the acceptable uses for the C-V Civic Zoned District. A wireless communications facility, stealth design, is a permitted use upon meeting the minimum conditions as listed by Title 19.04. Since this proposal does not meet the conditions for the residential adjacency setback, a Variance and Special Use Permit have been filed.

Trails:

A Multi-use Transportation Trail aligned with Alexander Road runs adjacent to the northern perimeter of the subject property. A wireless communications facility, stealth design will have little anticipated affect on the existing trail alignment.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.060, the following standards apply:

Residential Adjacency Standards	***Required/Allowed***	***Provided***	***Compliance***
3:1 proximity slope	240 Feet	184 feet	N*
Adjacent development matching setback	10 Feet	184 feet	Y

ANALYSIS

The existing church is a permitted use in the C-V zoning district. The cell tower is a permitted use upon either an administrative approval or approval of a Special Use Permit. Because of the adjacent residential development and non-compliance with the residential adjacency standards, this proposed tower location was deemed to be unsuitable for an administrative approval, and the applicant was directed to file a Special Use Permit application and a Variance application related to residential adjacency.

The proposed stealth antenna is located on the southwest portion of the subject C-V zoned parcel. It is a street lamp design at a height of 80 feet to the top of the antenna. Title 19.08.060 states that a Wireless Communication Facility, Stealth Design, be separated from residential uses by proximity slope of 3:1. This requires the proposed 80-foot antennae to be located 240 feet from the adjoining R-1 (Single Family Residence) property. The submitted site plan indicates that a minimum setback of 184 feet is provided. This use is not compatible with the C-V and the single-family residential developments in the surrounding area; therefore, denial is recommended.

The parking lot lighting is shown on the provided elevations to be at 40 feet in height. Although the lighting appears to utilize downward-directed lights, the height of the light poles exceeds the 30-foot height limitation and is double the 20-foot height recommendation as established in Title 19.08.050(E)5e. Parking lot lighting shall be directed away from residential property or screened, and shall not create fugitive lighting on adjacent properties.

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 not created a self-imposed hardship by proposing an 80-foot tall wireless communication facility adjacent to single family residences. Alternative site selection or reduced antenna height would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 5

ASSEMBLY DISTRICT 37

SENATE DISTRICT 6

NOTICES MAILED 500 by City Clerk

APPROVALS 0

PROTESTS 20