



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: FEBRUARY 14, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - VAR-25771 - APPLICANT: METRO PCS
NEVADA, LLC - OWNER: WAI CHUN GINN

**** CONDITIONS ****

STAFF RECOMMENDATION: **DENIAL.** If Approved, subject to:

Planning and Development

1. Conformance to the conditions for Special Use Permit (SUP-25769), if approved.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow a residential adjacency setback of 58 feet where Title 19.08.060 requires a 240-foot setback for a proposed 80-foot tall Wireless Communications Facility, Stealth (monopalm design), located on the east side of Martin L. King Boulevard, south of Owens Avenue.

Staff finds this proposal to be a self-imposed hardship due to the proposed Stealth Wireless Communication Facility being located too close to protected single-family properties to the east and by not conforming to the Title 19.08.040 Single Family Residential Development Standards. Therefore, staff recommends denial of both this Variance request, and the accompanying Special Use Permit (SUP-25769).

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
4/20/94	The City Council denied an appeal to the Board of Zoning Adjustments 3/22/94 denial for a Variance (V-0022-94), which was a request to allow a 40-foot high 12-foot by 24-foot Off-Premise advertising (billboard) sign.
10/01/03	The City Council approved a request to Amend (GPA-2497) the City of Las Vegas Downtown Development Plan Map (Map 9) of the Las Vegas Redevelopment Plan from Industrial to Commercial and from Industrial to Mixed Use for properties bounded by Charleston Boulevard to the north, Third Street to the east, Commerce Street to the west and Colorado Street to the south.
<i>Related Building Permits/Business Licenses</i>	
There are no Building Permits or Business Licenses recorded for this property.	
<i>Pre-Application Meeting</i>	
11/13/07	Pre-application meeting was held with staff to discuss the requirements for installing an 80-foot tall Wireless Communication Facility, Stealth Design (Monopalm) on residentially-zoned undeveloped land. Staff informed the applicant that a Variance from the Single-Family Residential District Development Standards is required for Residential Adjacency Setbacks and the height and setbacks required of the R-E (Residence Estates) Zoning District in addition to the required Special Use Permit.
<i>Neighborhood Meeting</i>	
A Neighborhood Meeting is not required, nor was one held.	

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<i>Field Check</i>	
11/29/06	A field check was completed by staff with the following observations: • Undeveloped lot with no discernible changes in grade. • Single-family neighborhood to the west of the subject property across N Street.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.92 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	C (Commercial)	R-E (Residence Estates)
North	Undeveloped	C (Commercial)	R-E (Residence Estates)
South	Undeveloped	C (Commercial)	C-1 (Limited Commercial)
East	Single Family Residences	C (Commercial)/ L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family Residences	R (Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
Redevelopment Plan Area	X		N
West Las Vegas Plan	X		N
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O Airport Overlay District 140 Feet	X		Y
Trails		X	NA
Rural Preservation Overlay District		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

A-O Airport Overlay District

The subject site is located within an Airport Overlay District that restricts the height of buildings to 105 feet. The existing wireless communication tower, at 80 feet, is below this maximum height.

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DEVELOPMENT STANDARDS

Pursuant to Title 19.08.040, the following Single-Family Residential District Development Standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	40,000 SF	Y
Min. Lot Width	100 feet	181 feet	Y
Min. Setbacks			
• Front	50 feet	212 feet	Y
• Side	10 feet	7 feet	Y
• Rear	35 feet	8 feet	Y
Max. Lot Coverage	50%	3%	Y
Max. Building Height	35 feet	80 feet	N
Mech. Equipment	Screened	Screened	Y

Pursuant to Title 19.08.060, the following standards apply:

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	240 feet	58 feet	N
Adjacent development matching setback	5 feet	8 feet	Y

ANALYSIS

- **Residential Adjacency Standards**

Pursuant to Title 19.08.060, the following Residential Adjacency Standards apply to the proposed 80-foot high Stealth Wireless Communication Facility, (monopalm design):

- Proximity slope:
The proposal needs Variance from the 3:1 proximity slope requirement. The applicant is proposing 58 feet where 240 feet are required due to the height of the tower. This represents a deviation of approximately 75 percent.
- Matching building setback:
The proposed building must be set back at least as far as the protected residential property to the east. As the adjacent setback is approximately five feet for the R-1 (Single-Family Residence) Zoning District and the proposed setback for the Wireless Communication is eight feet, the subject proposal complies with this requirement.

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- **Single-Family Residential Development Standards**

Pursuant to Title 19.08.040, the proposed 80-foot high Stealth Wireless Communication Facility, (monopalm design) must comply with the Single-Family Residential Development Standards. This proposal exceeds the 35-foot maximum height by 45 feet and does not meet the rear or side yard setbacks. Staff recommends denial of this request as the proposal is not compatible with the R-E (Residence Estates) Zoning District standards, or the single-family residences to the east.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), the 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 in locating a Wireless Communication Facility, Stealth Design within the R-E (Residential Estates) Zoning District, thus requiring more restrictive design standards as required by Title 19.08.040. The applicant has also created an additional self-imposed hardship by not providing an adequate setback to the protected property to the east. An alternative proposal of significantly reduced height and relocated within the required setbacks 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.

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