



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - VAR-28497 - APPLICANT: INSITE TOWERS, LLC - OWNER: VITALY V. SCHERBO**

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

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

***Planning and Development***

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-28496) and Site Development Plan Review (SDR-28498) shall be required, 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**

This request is for a Variance to allow a Residential Adjacency Setback of 152 feet where Title 19.08.060 requires a 240-foot setback for a proposed 80-foot Wireless Communication Facility, Stealth Design (Monopine) on 1.17 acres, located at 3250 North Bronco Street. The proposed communication facility will be located to the rear of an existing commercial building, centered within the area between the north and south ends of the structure, and abutting a property used for a mini warehouse. Because of the height of the monopine, Residential Adjacency Standards must be met to provide a buffer to residential uses to the north. This use does not meet the required 3:1 setback from adjacent residential uses, thus a Special Use Permit (SUP-28496) for the use is required, and will be heard concurrently with this request, along with a request for a Major Modification to an approved Site Development Plan Review (Z-0011-98) to allow a zero-foot rear landscape buffer where a 21-foot landscape buffer was previously approved.

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 residential properties to the north. Therefore, staff recommends denial of this Variance request, and the accompanying Special Use Permit and Major Amendment to the approved Site Development Plan Review.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
04/27/98	The City Council approved a request for Rezoning (Z-0011-98) from U (Undeveloped) zone [SC (Service Commercial) General Plan designation] to C-1 (Limited Commercial) for a proposed 12,000 square-foot gymnastics facility on 1.39 acres. The Planning Commission recommended approval on 3/26/98.
09/20/06	The City Council approved a request for a Site Development Plan Review (SDR-13796) for a proposed 10,542 square-foot, two-story addition to an existing gymnastics school on 1.39 acres at 3250 North Bronco Street. The Planning Commission recommended denial on 8/10/06.
09/20/06	The City Council approved a request for a Variance to allow 54 parking spaces where 113 spaces are required on 1.39 acres at 3250 North Bronco Street. The Planning Commission recommended denial on 8/10/06.
07/24/08	The Planning Commission approved a request for an Abeyance for a Variance (VAR-284970), Special Use Permit (SUP-28496), and Site Development Plan Review (SDR-28498), in an effort to provide the applicant with an opportunity to work with the property owner.

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08/14/08	The Planning Commission approved a request for an Abeyance for Variance (VAR-28497), Special Use Permit (SUP-28496), and Site Development Plan Review (SDR-28498), in an effort to provide the applicant with an opportunity to meet with the surrounding neighborhood.
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***Related Building Permits/Business Licenses***

08/21/98	A building permit (#98017140) was issued for the construction of a new building. The permit was finalized 4/19/99.
08/21/98	Building permits (#98017139 and #98017140) were issued for onsite improvements, and are part of submitted plans (C-0145-98), that were approved by the Planning & Development Department on 8/20/98.
06/25/99	A business license (#R23-00149-6-085915) was issued to the Vitaly Scherbo School of Gymnastics, and is still valid.

***Pre-Application Meeting***

05/14/08	A pre-application meeting was held with staff to discuss the requirements for a Special Use Permit for the proposed 80-foot Wireless Communication Facility, Stealth Design.
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***Neighborhood Meeting***

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

***Field Check***

06/18/08	The subject site is located at the rear of an existing building. There is graffiti on the north end of the building and trash enclosure.
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***Details of Application Request***

***Site Area***

Gross Acres	1.17
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<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Commercial-Recreation (Indoor)	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single-Family Dwellings	RE (Rural Estates-Clark County)	R-E (Rural Estates-Clark County)
South	Offices	SC (Service Commercial)	C-1 (Limited Commercial)
East	Mini Warehouse	SC (Service Commercial)	C-1 (Limited Commercial)
	Retail Establishment	SC (Service Commercial)	C-1 (Limited Commercial)

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West	Offices	RE (Rural Estates-Clark County)	CP (Offices and Professional- Clark County)
	Vacant Land	RE (Rural Estates-Clark County)	CP (Offices and Professional- Clark County)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>	X		Y
A-O (Airport Overlay) District (105 feet)	X		Y *
<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

\* The proposed Wireless Communication facility will not impact the Airport Overlay, as it is only 80-feet tall.

**DEVELOPMENT STANDARDS**

*Title 19.08.050 Commercial and Industrial District Development Standards (Accessory Structure)*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	N/A	N/A
Min. Lot Width	N/A	N/A	N/A
Min. Setbacks			
• Front	20 feet	90 feet	Y
• Side	15 feet	96 feet	Y
• Corner	15 feet	N/A	N/A
• Rear	8 feet	8 feet	Y
Max. Building Height	N/A	N/A	N/A
Trash Enclosure	Y	Y	Y
Mech. Equipment	Screened	Screened	Y

*The above development standards reflect the distance requirements for an accessory structure in a C-1 (Limited Commercial) zoning district.*

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	240 feet	152 feet	N
Adjacent development matching setback	30 feet	75 feet	Y

**September 11, 2008 - Planning Commission Meeting****ANALYSIS****• Residential Adjacency Standards**

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

- Proximity Slope:  
The proposal requires a Variance from the 3:1 proximity slope requirement. The applicant is proposing 152 feet where 240 feet are required due to the height of the tower. This represents a deviation of approximately 37 percent.
- Matching building setback:  
The proposed building must be set back at least as far as the protected residential property to the north. As the residential setback is approximately 30 feet for the RE (Rural Estates- Clark County) zoning district (front setback) and the proposed setback for the Wireless Communication Facility is 75 feet, the subject proposal complies with this requirement.

**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.

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by locating a Wireless Communication Facility, Stealth Design in such close proximity to the R-E (Rural Estates - Clark County) zoning district to the north. Alternative site selection 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**            6

**ASSEMBLY DISTRICT**            1

**SENATE DISTRICT**            6

**NOTICES MAILED**            159

**APPROVALS**            0

**PROTESTS**            2