

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - SUP-28496 - APPLICANT: INSITE TOWERS, LLC - OWNER: VITALY V. SCHERBO**

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

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

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Wireless Communication Facility, Stealth Design use.
2. 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.
3. The communications monopine and its associated equipment and facility shall be properly maintained and kept free of graffiti at all times. Failure to perform the required maintenance may result in fines and/or removal of the communications monopole and its associated equipment and facility.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.
5. Prior to the submittal of a building permit the applicant shall file a valid Federal Aviation Administration (FAA) Form 7460-1, Notice of proposed Construction or Alteration with the FAA, in accordance with 14 CFR Part 77, or submit to the Director of Aviation a Property Owners Shielding Determination Statement and request written concurrence from the Department of Aviation.

**Public Works**

6. The wireless communications facility shall not be located within the public right-of-way or interfere with Site Visibility Restriction Zones. The proposed ground mounted base shall not be located within existing or proposed public sewer or drainage easements.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for a proposed 80-foot monopine Wireless Communication Facility, Stealth Design behind an existing commercial building at 3250 North Bronco Street. The proposed facility will provide the opportunity to accommodate five (5) individual carriers. The applicant will construct a six-foot tall CMU wall with chain link gates (with privacy slats) on both the north and south ends of the site to limit visibility and access to the area. In addition to this Special Use Permit, a Variance (VAR-28497) to allow a Residential Adjacency Setback of 152 feet when 240 feet is required, and 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 approved has been submitted as companion items.

Although the communication facility is a stealth design and will be similar to trees located at both the north and south ends of the building, due to its proximity to residential development, staff is recommending denial.

**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-28497), 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.
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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<b>Related Building Permits/Business Licenses</b>	
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. The license is still valid.

<b>Pre-Application Meeting</b>	
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.

**Neighborhood Meeting**  
A neighborhood meeting was not required, nor was one held.

<b>Field Check</b>	
6/18/08	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.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	1.17

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
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)
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)

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<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>	Y		Y

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

**INTERAGENCY ISSUES**

Pursuant to Ordinance #5477, the proposed Special Use permit request has been deemed a Project of Regional Significance, as it concerns property located within 500 feet of the city boundary with Clark County. A questionnaire describing the impacts of the project to the area was submitted to various regional agencies for review. As of 7/3/08, no comments have been received.

**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*

\*A Variance (VAR-28497) has been requested to address this deficiency in Residential Adjacency Setback requirements.

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## ANALYSIS

- Use

The proposed use is for an 80-foot, five-carrier monopine Wireless Communication Facility, Stealth Design. The proposed facility will be located to the rear of an existing commercial building. The applicant intends to construct a six-foot tall CMU wall with chain link gates (with privacy slats) on both the north and south ends of the site to limit visibility and access to the area.

- **Conditional Use Requirements:**

1. The applicant must submit to the Department, for administrative review and approval, a site plan and an elevation drawing. The Director shall review the document to determine if the proposed facility conforms to the conditions listed below for this use. If the Director, in his/her discretion:

- a. Approves the proposed facility to proceed as a conditional use, the Director shall provide written notice of approval to the applicant, with a copy to the office of the City Council. Within 10 days after the notice is mailed or delivered, the applicant may proceed to apply for building permits, unless a member of the City Council files with the Director a written request for the Council to review is filed, the application must first be reviewed and approved by the Council.

- b. Determines that the proposed facility does not conform to the conditions listed below, a Special Use permit will be required for the use. Any determination by the Director that a Special Use Permit will be required is not subject to appeal.

2. No residential use may exist on the property

3. The design must conform to the definition of the term Wireless Communication Facility, Stealth Design, as set forth in section 19.20.020 and as determined by the Director.

4. Within an area designated as a Historic Preservation District, the proposed facility must first be reviewed by the Historic Preservation Commission before the Director considers granting approval as a conditional use.

5. The design and location of the proposed facility must be deemed by the Director to be compatible with surrounding uses, and the facility must include appropriate screening and landscaping to ensure such compatibility.

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6. The frequencies used by the communication provider shall be in conformance with Federal Communication Commission standards, as certified by a competent professional (such as a radio frequency engineer).

The proposed facility has been deemed not to be in conformance to conditional requirement #5; therefore, a Special Use Permit is required.

- **Site Plan and Residential Adjacency**

The proposed Wireless Communication Facility is to be located to the rear of an existing commercial building, centered within the area between the north and south ends of the structure. Directly abutting the proposed location to the east is a mini warehouse. To the north are single-family residential homes within Clark Countys jurisdiction. To the west is a parcel of land within Clark Countys jurisdiction that is zoned CP (Office and Professional) with a RE (Rural Estates) General Plan designation. To the south, there are offices and retail establishments. Title 19.08.060, Residential Adjacency Setback Standards requires a minimum of 240-feet from protected property. The proposed communication facility will be approximately 152-feet from the protected property to the north, which does not meet the minimum Residential Adjacency Setback requirements. A companion Variance (VAR-28497) has been submitted to address this deficiency.

## FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.**

The proposed Wireless Communication Facility, Stealth Design does not meet Title 19 requirements for this type of facility. The 80-foot tall monopine is 152-feet from residential property, which fails to comply with the Residential Adjacency Standards, requiring a setback distance of 240-feet. Therefore, the proposed use cannot be conducted in a manner that is harmonious and compatible with the protected property to the north.

2. **The subject site is physically suitable for the type and intensity of land use proposed.**

Staff has determined that the site is not physically suitable for accommodating an 80-foot tall communication facility, as the increased intensity of land use is too great for the residential property to the north.

**3. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.**

Staff finds the Wireless Communications Facility will not generate additional traffic to and from the site, and, therefore will not affect the surrounding roadways. Access to the proposed site will be from North Bronco Street, a 50-foot street.

**4. Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.**

The associated request for a Variance (VAR-28497) and Major Amendment to an approved Site Development Plan Review (SDR-29498) demonstrates that this proposal is not consistent with the public health, safety, and welfare. Because the proposed use will not be constructed in compliance with applicable development standards, staff recommends denial of this request.

**5. The use meets all of the applicable conditions per Title 19.04.**

Staff finds that the location of this proposal does not meet condition #5 of the Conditional Use Regulations, in that the Wireless Communication Facility, Stealth Design is not compatible with the adjacent residential properties to the north.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 1

**SENATE DISTRICT** 6

**NOTICES MAILED** 159

**APPROVALS** 0

**PROTESTS** 2