

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SDR-28498 - 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 Rezoning (Z-0011-98), Special Use Permit (SUP-28496), Variance (VAR-28497) shall be required, if approved.
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. All development shall be in conformance with the site plan and building elevations, date stamped 06/09/08; and the landscape plans, date stamped 7/10/08, except as amended by conditions herein.
4. All mechanical equipment, air conditioners, and trash areas shall be fully screened in views from the abutting streets.
5. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
6. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

**Public Works**

7. Coordinate with the City Surveyor to determine whether a reversion to acreage or boundary line adjustment is necessary; comply with the recommendations of the City Surveyor.

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

**PROJECT DESCRIPTION**

This request is for a Major Amendment 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 on 1.17 acres at 3250 North Bronco Street. The proposed Wireless Communication Facility, Stealth Design (Monopine) will be located to the rear of an existing commercial building, centered within an area between the north and south ends of the structure. The applicant requests to remove a total of five (5) existing plants, which includes one (1) Palm Tree, one (1) Rio Grande Ash Tree, one (1) Broadleaf Evergreen Shrub, and two (2) Mondel Pine trees (one at each end of the proposed site entrance). Additionally, the applicant will cap the existing irrigation system located at the proposed site.

In addition to this Major Amendment to an approved Site Development Plan Review, a request for a Special Use Permit (SUP-28496) to allow a 80-foot monopine Wireless Communication Facility, Stealth Design, and a Variance (VAR-28497) to allow a Residential Adjacency Setback of 152 feet when 240 feet is required have been submitted as companion items.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b> |                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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.                                     |
| 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><i>Related Building Permits/Business Licenses</i></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, and is still valid.                                                                                  |
| <b><i>Pre-Application Meeting</i></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.                         |
| <b><i>Neighborhood Meeting</i></b>                         |                                                                                                                                                                                                      |
| A neighborhood meeting was not required, nor was one held. |                                                                                                                                                                                                      |

| <b><i>Field Check</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/18/08                  | The subject site is located to the rear of an existing building. There is graffiti on the north end of the building and on the trash enclosure. Additionally, according to the approved Site Development Plan Review (Z-0011-98), the location does not comply with the required landscaping in both the subject area and surrounding areas. The existing plants on site appear to lack proper irrigation and maintenance. Additionally, the entire site lacks the proper ground cover per the approved landscaping plans. |

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

| <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                 |

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



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| <i>Landscaping and Open Space Standards</i>                                   |                      |              |                 |                   |
|-------------------------------------------------------------------------------|----------------------|--------------|-----------------|-------------------|
| <i>Standards</i>                                                              | <i>Required</i>      |              | <i>Provided</i> | <i>Compliance</i> |
|                                                                               | <i>Ratio</i>         | <i>Trees</i> |                 |                   |
| Buffer:<br>Min. Trees                                                         | 1 per 30 Linear Feet | 10 Trees     | 6 Trees         | N*                |
| Minimum Zone Width: rear area<br>• Approved Landscaping Plans (Dated 8/20/98) | 21-feet              |              | 0-feet          | N**               |

*\* Title 19.12.040 requires a perimeter-landscaping buffer for commercial property of 1- 24 box tree minimum per 30 linear feet. In accordance with these requirements, the proposed site must have a minimum of six (6) trees, which it provides, but the approved Site Development Plan Review (Z-0011-98) required a minimum of ten (10) trees. Therefore, the subject property does not comply with the approved landscaping plans previously approved by the City Council.*

*\*\* Approved Site Development Plan Review (Z-0011-98), Condition #1 required Landscaping Plans to be approved by the Planning & Development Department prior to the issuance of any permit. These plans, approved on 8/20/98, required a minimum rear property line depth of 21-feet. The applicant is proposing to decrease this requirement to a zero-foot buffer width.*

## **ANALYSIS**

- **Zoning**

The subject site is zoned C-1 (Limited Commercial) and is located within the Centennial Hills Sector of the General Plan with a SC (Service Commercial) land use designation. The C-1 (Limited Commercial) District is intended to provide most retail shopping and personal services, and may be appropriate for mixed-use development. This district should be located on the periphery of residential neighborhoods and should be confined to the intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) District is consistent with the Service Commercial and the Neighborhood Center categories of the General Plan.

- **Site Plan**

On 4/27/98, the City Council approved a request for Rezoning (Z-0011-98) on property located to the east side of North Bronco Street, north of Cheyenne Avenue from U (Undeveloped) zone [SC (Service Commercial) General Plan designation] to C-1 (Limited Commercial) for a proposed 12,000 square-foot, one-story gymnastics facility. A condition of approval included that the applicant provide the Planning & Development Department a Landscaping Plan, which was approved on 8/20/98. Later, on 9/20/06, the City Council approved a request for a Site Development Plan Review (SDR-13796) to add 10,542 square-feet (second-story) to the existing gymnastics facility.

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The applicant is requesting a Major Amendment to the approved Site Development Plan Review (Z-0011-98) to allow a zero-foot landscaping buffer when a 21-foot buffer was approved in order to install an 80-foot Wireless Communication Facility, Stealth Design. The subject area is to the rear of the existing commercial building, centered between the north and south ends of the structure. Abutting the proposed location to the east is a mini-warehouse facility. The proposed location has commercial property to the south, offices to the west, and single-family homes to the north.

- **Landscaping**

The originally approved landscape plan from 08/20/98 depicted various landscape buffers around the perimeter and parking area of the subject area. Per Condition number 1 of the approved Site Development Plan Review (Z-0011-98), the Planning and Development Department approved a 21-foot landscape buffer along the eastern property line. Within the approved landscape buffer, ten (10) 24-inch box trees were proposed. During Staffs site visit it was noted that only six (6) trees [three (3) at each end of the subject area], were present. Therefore, the subject site is currently deficient four (4) trees from what was originally approved.

The proposed Major Amendment to the approved Site Development Plan Review (Z-0011-98) depicts a zero-foot perimeter landscape buffer along the eastern property line, where 21 feet was approved. The applicant is proposing a 70 percent reduction in the number of required trees within the subject area, by denoting the removal of an additional three (3) trees, therefore, reducing the total number of trees to three (3), where ten (10) were originally approved.

## **FINDINGS**

In order to approve a Site Development Plan application, per Title 19.18.050 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 development of a Wireless Communication Facility, Stealth Design is compatible with the C-1 (Limited Commercial) zoning district. The parcels directly south and east of the proposed site have commercial uses: west of the proposed site are offices, and to the north are single-family homes. The development of a communication facility is not compatible with the single-family homes to the north, since Residential Adjacency Setback standards cannot be met.

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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 Wireless Communication Facility, Stealth Design is consistent with the General Plan; however, the proposed development does not comply with Title 19 standards. No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship in locating the communication facility 152-feet from protected property to the north when 240-feet is required, therefore a Variance (VAR-28497) has been requested. Additionally, a Major Amendment to an approved Site Development Plan Review (Z-0011-98) to allow a zero-foot rear landscaping buffer when a 21-foot buffer was approved is not consistent with the minimum landscape standards required by Title 19.12 for a commercial site.

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

This request does not negatively impact adjacent roadways or neighborhood traffic.

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

The materials used on the communication facility (monopine) are designed to blend with existing trees on the site, but the height of the proposed structure exceeds that of any nearby foliage. As the amount of existing landscaping materials is to be decreased by the applicant, the facility will be more visible to the surrounding area and therefore, not appropriate for the area.

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 Wireless Communication Facility's elevation exceeds the height of structures located within the surrounding area. Although the proposed facility will attempt to blend with trees on the subject site, it will be much taller than any tree or building in the vicinity. Therefore, it is not aesthetically compatible or harmonious with development in the area.

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

Access gates at both entry points to the rear of the building will secure the proposed development. Additionally, the proposed development will be subject to inspections; therefore, will not compromise the public health, safety, or welfare.

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**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 6

**ASSEMBLY DISTRICT** 1

**SENATE DISTRICT** 6

**NOTICES MAILED** 159

**APPROVALS** 0

**PROTESTS** 2