



AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 15, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-28293 ABEYANCE ITEM APPLICANT: CLEARWIRE COMMUNICATIONS - OWNER: MAHILL LLC

THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 17, 2008 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (4-1/sd vote) and staff recommend DENIAL.

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Wireless Communication Facility, Stealth Design use.
2. The communications slim line monopole 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.
3. This approval shall be void two years from the date of final approval or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This Special Use Request is for a proposed 80-foot slim-line, four-carrier Wireless Communication Facility, Stealth Design behind an existing unoccupied commercial building at 4221 West Charleston Boulevard. The proposed facility will provide opportunities for three collocations. Additionally, the site of the facility will be screened on three (3) sides with 6-foot tall stucco walls to limit public view. Although the facility is of stealth design and is screened behind an existing building on the site, due to the overall size and proximity to residential property to the south, staff is recommending denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
6/27/62	The Board of City Commissioners approved the reclassification of property from R-E (Residence Estates) to C-1 (Limited Commercial).
8/28/80	The Board of Zoning Adjustment approved a request for a variance to allow 22 parking spaces where 85 are required.
07/10/08	The Planning Commission voted 4-1/sd to recommend DENIAL (PC Agenda Item #29/ds).
<i>Related Building Permits/Business Licenses</i>	
No previous building permits/business licenses pertaining to the proposed Wireless Communication Facility.	
<i>Pre-Application Meeting</i>	
4/16/08	Staff met with the applicant to discuss the requirements for the 80-foot Wireless Communication Facility, Stealth Design. Title 19 requirements, including residential adjacency standards were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	
<i>Field Check</i>	
6/18/08	The subject site is located to the rear of an existing building abutting an alley. Trash was scattered along existing fencing to the west and all along the alley. On the opposite side of the alley is a one-story church. In front of the subject site are single story commercial businesses.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.81 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Vacant Commercial Building	SC (Service Commercial)	C-1 (Limited Commercial)
North	Offices	SC (Service Commercial)	PR (Professional Office and Parking)
South	Church	R (Rural Density Residential)	R-E (Residence Estates)
East	Auto Repair	SC (Service Commercial)	C-2 (General Commercial)
	General Retail Store	SC (Service Commercial)	C-1 (Limited Commercial)
West	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (175-Feet)	X		Y *
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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

DEVELOPMENT STANDARDS

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	240 feet	273 feet	Yes

ANALYSIS

- Use

The proposed use is for an 80-foot stand-alone slim-line, four-carrier monopole with stealth canisters. Additionally, the applicant proposes constructing a 6-foot tall stucco wall surrounding the perimeter of the equipment area. Access to the site will be from Vista Drive through the alley to the rear of the existing building.

- **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.
 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 on the southwest of the subject property behind an existing building, abutting the alley. To the north, west, and east of the proposed location is commercially zoned property. To the south is a parcel zoned for residential use, but utilized for a church, which was permitted by Special Use Permit.

The parcel of land directly south of the proposed communication facility is normally considered protected property according to Title 19.08.060, Residential Adjacency Setback Standards. However, pursuant to Title 19.08.060(B)(1)(b), the proximity slope limitation does not apply when non-residential buildings, such as schools and churches are built on the protected property; therefore, the Residential Adjacency Standards are not applicable. The closest protected property is vacant land approximately 273-feet southeast of the proposed communication facility.

FINDINGS

The following findings must be made for a Special Use Permit:

- 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 80-foot Wireless Communication Facility, Stealth Design will be located on a parcel with the majority of nearby commercial facilities being single-story. In addition, even though Residential Adjacency Setback Standards are not applied to the residentially zoned parcel utilized by a church to the south, it will still be too great a visual intrusion to the residential property in the nearby vicinity. Therefore, the proposed use is not harmonious and compatible with the existing land uses surrounding the site.

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

Although the subject site is physically suitable for the 80-foot Wireless Communication Facility, Stealth Design, the increased intensity of land use is too great on the residential properties to the south and southeast.

- 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 Communication Facility will not generate additional traffic to and from the site; and, therefore will not affect the surrounding roadways. Access to the site will be from Vista Drive, an 80-foot Frontage Street, as shown within the Master Plan of Streets and Highways.

- 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.**

Staff finds the proposed overall monopole height of 80-feet inconsistent with the public health, safety, and welfare as the resulting visual clutter and obstructed view will degrade the quality of life currently enjoyed by residents in the area.

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

The proposed 80-foot tall monopole meets all applicable use requirements, except that the location of the facility is not compatible with the surrounding land uses.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 19

ASSEMBLY DISTRICT 3

SENATE DISTRICT 11

NOTICES MAILED 160 by City Clerk

APPROVALS 1

PROTESTS 3