



AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 3, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-29656 - APPLICANT: METRO PCS NEVADA, LLC
OWNER: HIGHLAND PARTNERSHIP 1980 LP

THIS ITEM WAS HELD IN ABEYANCE FROM THE NOVEMBER 19, 2008 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILWOMAN TARKANIAN.

**** CONDITIONS ****

The Planning Commission (4-3/bg/sd/gt vote) and staff recommend DENIAL.

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for a Wireless Communication Facility, Non-Stealth Design use.
2. Conformance to the conditions for Special Use Permit (U-0011-72), if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. The communications 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.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Special Use Permit to allow the co-location of antennas on an existing 62-foot tall Wireless Communication Facility, Non-Stealth Design (monopole) at 1111 Desert Lane. The applicant is proposing to attach three antennas at the 48-foot centerline on the monopole, in addition to installing radio cabinets within a new adjoining compound.

The proposed co-location of the antennas was the subject of an administrative Site Development Plan Review (SDR-28352), which was denied on May 28, 2008. The denial was based on a decision made that the application could not be determined administratively as the non-stealth monopole is a legal non-conforming structure located within 600 feet of another communication facility; therefore, staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
03/22/79	The Board of Zoning Adjustments approved a request for a Variance (V-0009-79) to allow a building addition two feet from the rear property line where 20 feet is required; and to allow four parking spaces where eight are required at 1111 Desert Lane.
01/20/71	The Board of City Commissioners denied an appeal for a Variance (V-0049-70) to permit occupancy of a detached accessory building for living purposes in addition to the single-family dwelling at 1111 Desert Lane. The Board of Zoning Adjustments denied the Variance on 12/3/70.
07/17/02	The City Council approved a request for a Special Use Permit (U-0011-02) for a 62-foot tall Wireless Communication Facility (Monopole) on property located at 1111 Desert Lane. The Planning Commission recommended approval on 04/25/02.
05/28/08	Staff denied a request for a Minor Site Development Plan Review (SDR-28352) to co-locate three flush-mounted antennas on an existing 62-foot tall Wireless Communication Facility, Non-Stealth Design at 1111 Desert Lane.
10/09/08	The Planning Commission voted 4-3/bg/sd/gt to recommend DENIAL (PC Agenda Item #39/ds).
<i>Related Building Permits/Business Licenses</i>	
09/12/02	A building permit (#2016517) was issued for a decorative wall 10 feet by 6 feet in size at 1111 Desert Lane. The project was completed on 10/31/02.
09/12/02	A building permit (#2016516) was issued for a 62-foot tall monopole with antennas at 1111 Desert Lane. The project was completed on 11/15/02.
10/11/07	A business license (B20-01340) was issued for Business Support Services at 1111 Desert Lane. The license is still active.

<i>Pre-Application Meeting</i>	
08/25/08	A pre-application meeting was conducted with the representative for the project to discuss Title 19 and the Special Use Permit submittal requirements pertaining to Wireless Communication Facilities.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	
<i>Field Check</i>	
09/02/08	A field inspection of the proposed site was conducted. The area surrounding the communication facility appeared clean and well kept.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.18

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Business Support Services	SC (Service Commercial)	P-R (Professional Office)
North	General Retail Establishment	SC (Service Commercial)	C-1 (Limited Commercial)
South	Offices	SC (Service Commercial)	P-R (Professional Office)
East	Medical Offices	SC (Service Commercial)	C-1 (Limited Commercial)
West	Church	O (Office)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts	X		Y
A-O Airport Overlay District (200 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 co-location of antennas on an existing 60-foot Wireless Communication Facility, Non-Stealth Design will not impact the Airport Overlay, as it is only 60 feet tall.

ANALYSIS

- Use

The proposed addition of three panel antennas to the existing 62-foot Wireless Communication Facility, Non-Stealth Design did not qualify for Conditional Use Approval as the subject site was determined not compatible with surrounding uses. As such, a Special Use Permit for a Wireless Communication Facility, Non-Stealth Design is required.

The Title 19.04 adoption of a 600-foot distance separation between communication facilities made the existing facility a legal nonconforming structure. In accordance with Title 19.16.030(C), the proposed expansion of a nonconforming structure is allowable if the total of all additions or enlargements do not exceed more than 50 percent of the size of the original footprint of the structure.

- **Minimum Special Use Permit Requirements: Wireless Communication Facility, Non-Stealth Design (Not Qualifying for Conditional Use Approval)**

- *1. No residential use may exist on the property.
- *2. Any antenna tower that forms part of the facility shall conform with both the setback requirements of the zoning district and the separation requirements of Section 19.08.060.
- *3. Except in the C-V Zoning District, no antenna tower that forms part of a facility may be located within 600 feet of:
 - a. Any other antenna tower that forms part of a wireless communication facility; or
 - b. Any pole or tower structure of any other type that has a height of at least 60 feet.
- *4. Antenna towers and associated components shall be initially painted and thereafter repainted with flat paint, using a color that is approved by the City Council. Except as otherwise required by the Federal Communications Commission or the Federal Aviation Administration, the color of any antenna tower must generally match the surroundings or background so as to minimize its visibility.
- *5. Failure to perform necessary maintenance and repainting shall be grounds for administrative and other enforcement action, including action pursuant to Requirement 9 below.

- *6. Any proposed antenna tower must be designed to accommodate at least two (2) communication providers or, in the case of a tower, that exceeds 80 feet in height, at least three (3) communications providers.
- *7. No signals, lights, or other attention gaining devices are permitted on any antenna tower or antenna unless required by the Federal Communications Commission or Federal Aviation Administration; provided, however, that is condition shall not be construed to prevent the mounting of an antenna on a signal, light, or sign that has been legally permitted and installed.
- *8. All ground level equipment, building and base if any antenna tower must be screened so as to not be visible from streets and residences, with appropriate landscaping designed to ensure compatibility with surrounding uses.
- *9. Any abandoned or unused antenna tower, and the associated components of any facility, shall be removed within six (6) months after operations at the site cease. In the event that removal is not timely performed, the City may remove, or cause the removal of the antenna tower and associated components, and assess the costs of removal against the property. Before taking such action, the City must deliver or mail to the property owner a notice of the City's intent to do so. The property owner shall have 30 days from the date the notice is delivered or mailed to request a hearing. The failure to request a hearing shall be deemed a waiver of the right to be heard, and the City may immediately cause the removal of the antenna tower and any associated components, and may assess the costs against the property.

Due to adopted changes to Title 19.04, and the installation of a Wireless Communication Facility, Stealth Design less than 600 feet to the northwest of the subject site, the communication facility is now considered a legal nonconforming structure. Condition No.3 above is not applicable, as the structure is already an approved facility.

- **Site Plan and Residential Adjacency**

The existing monopole and its facilities are located south of West Charleston Boulevard and east of Desert Lane on property shared by an office. The communication facility is located within an existing walled and gated facility north of the existing building. The only changes to the ground layout of the subject facility will be the addition of the radio cabinets at the base of the monopole, which will take place within the walled enclosure. The nearest communication facility is a Wireless Communication Facility, Stealth Design approximately 390 feet to the northwest located off Charleston Boulevard.

The enclosure of the existing Wireless Communication Facility abuts property zoned P-R (Professional Offices) to the south, C-1 (Limited Commercial) to the north and east, and R-E (Residence Estates) to the west. The property to the west is used for a House of Worship; therefore, Title 19.08.060 Residential Adjacency Setback Standards are not applicable as it does not meet the definition of a protected property.

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 co-location of additional antennas on the existing 62-foot communication facility will be too great of a visual intrusion to the surrounding areas, especially since there is another facility less than 400 feet from the subject site. Therefore, the proposed co-location is not harmonious and compatible with existing land uses near the site.

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

Although the existing monopole is a legal nonconforming structure and the additional antennas will not increase the intensity more than 50 percent per Title 19.16.030, the increased intensity of land use is too great for the surrounding area.

- 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.**

Desert Lane, a 50-foot Local Street per the Master Plan of Streets and Highways, will provide adequate access to the subject site as there is little expected traffic associated with a Wireless Communication Facility.

- 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 that the welfare of the general public will be compromised by the approval of this co-location on the existing monopole, as the resulting visual clutter and obstructed views will degrade the quality of life currently enjoyed by the businesses surrounding the site.

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

The proposed co-location of antennas on an existing Wireless Communication Facility, Non-Stealth Design meets all applicable use requirements as annotated in Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 87 by City Clerk

APPROVALS 1

PROTESTS 0