



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-32604 - APPLICANT: CLEARWIRE US, LLC - OWNER:
YS & AJ ASSOCIATES

**** 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 Communications Facility, Stealth Design use.
2. Approval of and conformance to the Conditions of Approval for Special Use Permit (U-0056-01) and Variance (VAR-32531) shall be required, 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 is a request for a Special Use Permit for a proposed 10-foot extension of an existing 60-foot Wireless Communications Facility, Stealth Design (Flagpole) on 1.70 acres at 450 S. Buffalo Drive. A companion Variance (VAR-32531) application has also been submitted to allow a 70-foot Wireless Communications Facility, Stealth Design (Flagpole) to have a 180-foot setback where Residential Adjacency standards require 210 feet. The proposed addition in height to the existing wireless communications facility will precipitate an increase in visual intrusion upon the surrounding community, and therefore impact its welfare. As such, the use cannot be conducted in a harmonious manner and staff is recommending denial of this application and the associated Variance.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
07/05/01	The City Council approved a Special Use Permit (U-0056-01) for a Wireless Communications Facility (Stealth Flagpole) at 450 S. Buffalo Drive. The Planning Commission recommended denial.
10/23/08	The Planning and Development Department denied a request for administrative approval of a Site Development Plan Review (SDR-29742) of a 10-foot extension and co-location of six additional antennas to a 60-foot tall Wireless Communication Facility, Stealth Design (Flagpole) at 450 South Buffalo Drive.
<i>Related Building Permits/Business Licenses</i>	
09/11/00	A building permit (#16890) was issued for tenant improvement and a certificate of occupancy for an equipment room for a Wireless Communications Facility at 450 S. Buffalo Drive. The permit was finalized on 08/27/01.
<i>Pre-Application Meeting</i>	
11/26/08	A pre-application meeting was held to discuss the requirements for extending an existing Wireless Communications Facility, Stealth Design, including the need for a Special Use Permit and Variance for Residential Adjacency.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was neither required nor held for this application.	
<i>Field Check</i>	
12/24/08	A field check was conducted by staff. The subject site contains a shopping center with the existing 60-foot tower located in the parking lot.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	1.70 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial Center and Wireless Communications Facility, Stealth Design	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
South	Auto Repair Garage, Bank	SC (Service Commercial)	C-1 (Limited Commercial)
East	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residences	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)

<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	N/A
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

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	74,473 SF	N/A
Min. Lot Width	100 Feet	250 feet	Y
Min. Setbacks			
• Front	20 Feet	112 Feet	Y
• Side	10 Feet	190 Feet	Y
• Corner	15 Feet	60 Feet	Y
• Rear	20 Feet	180 Feet	Y
Mech. Equipment	Screened, Enclosed	Screened, Enclosed	Y

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Pursuant to Title 19.08.060, the following standards apply:

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	210 Feet	180 Feet	N*
Adjacent development matching setback	15 Feet	180 Feet	Y

**A Variance (VAR-32531) has been submitted to allow a 180-foot setback where Residential Adjacency standards require 210 feet.*

ANALYSIS

This is a request for a Special Use Permit for a proposed 10-foot extension of an existing 60-foot Wireless Communications Facility, Stealth Design (Flagpole) at 450 S. Buffalo Drive. The applicant has submitted a companion Variance (VAR-32531) application to allow a 70-foot Wireless Communications Facility, Stealth Design (Flagpole) to have a 180-foot setback where Residential Adjacency standards require 210 feet. At a height of 60 feet, the existing tower meets the minimum 180-foot setback from residential property, as required by Title 19.08.060 Residential Adjacency Standards. The proposed addition in height to the existing wireless communications facility will precipitate an increase in visual intrusion upon the surrounding community, and therefore impact its welfare. As such, the use cannot be conducted in a harmonious manner and staff is recommending denial of this application and the associated Variance.

- **Use**

A Wireless Communication Facility, Stealth Design is a wireless communication facility that is designed to blend into the surrounding environment. Examples include without limitation: antenna tower alternative structures; roof-mounted antennas (with architectural screening when appropriate); building-mounted antennas painted to match the existing structure; antennas integrated into architectural elements (such as steeples or cupolas); antennas and antenna structures designed to look like light poles, flagpoles, or any other camouflaging techniques available on the market; and a cable microcell network which utilizes multiple low-powered transmitters/receivers or repeaters attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

- **Conditional Use Regulations**

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 documents to determine if the proposed facility conforms to the conditions listed below for this use. If the Director, in his 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 the approval. If such a request to review is filed, the application must first be reviewed and approved by the Council.

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- 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).

Pursuant to condition number 1.b. above, a Special Use Permit is required as the proposed tower is deemed not compatible with the surrounding residential uses because it does not meet the minimum setback distance required by Residential Adjacency standards, and therefore, does not conform to condition number 5.

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 addition in height to the existing wireless communications facility will precipitate an increase in visual intrusion upon the surrounding community, and therefore impact its welfare. As such, the use cannot be conducted in a harmonious manner and staff is recommending denial of this application and the associated Variance.

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

The subject site is not physically suitable for the type and intensity of the proposed use as approval of a Variance to a required minimum setback distance will be required.

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- 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.**

The site is accessed by two existing driveways, the first to Buffalo Drive, a 100-foot Primary Arterial, and Alta Drive, an 80-foot Secondary Collector, as designated by the Master Plan of Streets and Highways. As the use is existing, and there is little traffic associated with it, access is adequate to meet the requirements of the proposed use.

- 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 proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety and general welfare.

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

The use does not meet all conditional use regulations, per Title 19.04, making this request for a Special Use Permit necessary. The proposed height of the facility will also require approval of a Variance to the minimum setback distance required by Title 19.08.060.

ASSEMBLY DISTRICT 3

SENATE DISTRICT 8

NOTICES MAILED 410

APPROVALS 0

PROTESTS 3