

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: APRIL 9, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SUP-32816 - APPLICANT: CLEARWIRE US, LLC  
- OWNER: ROBERT HANDAL**

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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, including parking requirements.
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 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.
4. Any landscaping that is removed or destroyed during the installation of the Wireless Communication Facility and Equipment Cabinet shall be replaced and restored.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Public Works**

6. The proposed wireless communications facility shall not be located within the public right-of-way or interfere with Site Visibility Restriction Zones. The proposed structure and 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 70-foot tall Wireless Communication Facility, Stealth Design (Flagpole) at 8550 West Sahara Avenue. The proposed facility will initially accommodate one carrier and provide the opportunity to accommodate additional carriers if necessary. The initial carrier will provide three antennas at the 68-foot centerline, and three microwave dishes mounted at the 65-foot centerline of the proposed Flagpole. Both the antennas and microwave dishes will be mounted within the interior of the flagpole, and will not be visible to the public. A new equipment cabinet enclosure will also be installed adjacent to the new Flagpole.

The subject property has an existing 80-foot tall Wireless Communication Facility, Stealth Design (Monopalm) approximately 180 feet northwest of the proposed cell tower location and another existing 111-foot tall Wireless Communication Facility, Non-Stealth Design approximately 240 feet northwest of the subject site, on the adjacent property immediately to the west. The approval of this request would create an oversaturation of Wireless Communication Facilities within the immediate area; therefore staff recommends denial of this request.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
05/23/05	The Planning and Development Department administratively approved a request for a Site Development Plan Review (SDR-19865) to allow a proposed 80-foot tall Wireless Communication Facility, Stealth Design (Monopalm) at 8550 West Sahara Avenue.
05/11/07	Code Enforcement processed a complaint (case #53187) for illegal signs in the right-of-way at 8550 West Sahara Avenue. The case was resolved on 06/07/07.
06/26/07	Code Enforcement processed a complaint (case #54754) for illegal signs being posted on the sidewalk, in the landscape areas, and in the median at 8550 West Sahara Avenue. The case was resolved on 10/25/07.
11/20/08	The Planning and Development Department administratively denied a request for a Site Development Plan Review (SDR-30411) to allow a proposed 70-foot tall Wireless Communication Facility, Stealth Design (Flagpole) at 8550 West Sahara Avenue.
12/23/08	Code Enforcement processed a complaint (case #72961) for an illegal sign in the landscape area at 8550 West Sahara Avenue. The case is still open.

**SUP-32816 - Staff Report Page Two**  
**April 9, 2009 - Planning Commission Meeting**

02/12/09	The Planning Commission approved a request to hold Special Use Permit (SUP-32816) in abeyance until the 02/26/09 Planning Commission meeting.
02/26/09	The Planning Commission approved a request for Special Use Permit (SUP-32816) to be held in abeyance until the 03/12/09 Planning Commission Meeting.
03/12/09	The Planning Commission approved a request for Special Use Permit (SUP-32816) to be held in abeyance until the 04/09/09 Planning Commission Meeting.
<b><i>Related Building Permits/Business Licenses</i></b>	
02/01/93	A building permit (#93174377) was issued for grading at 8550 West Sahara Avenue. The permit expired on 10/02/99.
02/05/93	A building permit (#93175044) was issued for onsite improvements at 8550 West Sahara Avenue. The permit was finalized on 07/14/93.
02/05/93	A building permit (#93175045) was issued for a new building at 8550 West Sahara Avenue. The permit was finalized on 07/19/93.
02/05/93	A building permit (#93175046) was issued for a new car wash at 8550 West Sahara Avenue. The permit was finalized on 07/14/93.
02/17/93	A building permit (#93176195) was issued for a retaining wall at 8550 West Sahara Avenue. The permit was finalized on 07/14/93.
10/10/96	A building permit (#96020464) was issued for a car wash enclosure at 8550 West Sahara Avenue. The permit was finalized 07/16/97.
06/14/01	A building permit (#01010784) was issued for a non-work certificate of occupancy at 8550 West Sahara Avenue. The permit was finalized on 06/19/01.
08/19/03	A building permit (#03017729) was issued for a 63-foot by 6-foot chain link fence at 8550 West Sahara Avenue. The permit was finalized on 12/05/03.
08/19/03	A building permit (#03017728) was issued for locating antennas on existing tower and installing equipment at base at 8550 West Sahara Avenue. The permit was finalized on 12/05/03.
08/04/05	A business license (G02-00714) was issued for a minor auto repair facility at 8550 West Sahara Avenue. The business license is active.
08/11/05	A building permit (#05005571) was issued for outdoor electrical on a concrete pad at 8550 West Sahara Avenue. The permit was finalized on 03/14/07.
08/11/05	A building permit (#05005570) was issued for a monopole antenna at 8550 West Sahara Avenue. The permit expired on 06/23/07.
12/21/07	A building permit (#103030) was issued for the replacement of antennas for a technical upgrade at 8550 West Sahara Avenue. The permit was finalized on 04/09/08.
<b><i>Pre-Application Meeting</i></b>	
12/30/08	A pre-application meeting was held where the submittal requirements for a Special Use Permit for a Wireless Communication Facility, Stealth Design was discussed.

SUP-32816 - Staff Report Page Three  
 April 9, 2009 - Planning Commission Meeting

<b>Neighborhood Meeting</b>	
A neighborhood meeting was not required for this application.	

<b>Field Check</b>	
01/08/09	Staff performed a routine field check where staff observed two (2) wireless communication facilities (one monopalm, one non-stealth) that were very visible from both Sahara Avenue and Durango Drive street frontages. Non-permitted temporary signage was also observed within the landscape buffer.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.52

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Auto Repair Facility / Wireless Communication Facility, Stealth Design	SC (Service Commercial)	C-1 (Limited Commercial)
North	Apartments	M (Medium Density Residential)	R-PD19 (Residential Planned Development 19 Units per Acre)
South	Gas Station / Convenience Store / Shopping Center	C-2 (General Commercial) Clark County	CG [Commercial General (Spring Valley)] Clark County
East	Commercial Center	SC (Service Commercial)	C-1 (Limited Commercial)
West	Gas Station / Convenience Store / Wireless Communication Facility, Non-Stealth Design	SC (Service Commercial)	C-1 (Limited Commercial)

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Area Plan</b>		X	N/A
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<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		Y

NE

**DEVELOPMENT STANDARDS**

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	23,014 SF	N/A
Min. Lot Width	100 Feet	110 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	10 Feet	16 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear	20 Feet	97.5 Feet	Y

**ANALYSIS**

- **Zoning**

The subject site is zoned C-1 (Limited Commercial) with a land use designation of SC (Service Commercial). A Wireless Communication Facility, Stealth Design is a conditional use in a C-1 (Limited Commercial) zone, unless the Director determines that the proposed facility does not conform to the conditions listed below, a Special Use Permit will be required for the use.

- **Wireless Communication Facility, Stealth Design**

Title 19.04 defines a Wireless Communication Facility, Stealth Design as, 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.

- **Use**

The applicant is proposing a 70-foot, Wireless Communication Facility, Stealth Design (Flagpole) at an existing commercial development at 8550 West Sahara Avenue. The proposed facility would be located at the southeast corner of the proposed site in the front landscape buffer area along Sahara Avenue. A total of three (3) sectors will be mounted on the proposed tower at the 68-foot centerline, each sector capable of housing one (1)

**SUP-32816 - Staff Report Page Five**  
**April 9, 2009 - Planning Commission Meeting**

antenna for a total of three (3) antennas. The proposed Flagpole will also house three (3) microwave dishes mounted at the 65-foot centerline. Both the antennas and microwave dishes would be housed on the interior of the flagpole, not visible to the public. The proposed flagpole is also capable of collocating if necessary.

The proposed Wireless Communication Facility, Stealth Design (Flagpole) will sit approximately 180 feet southeast of the existing Wireless Communication Facility, Stealth Design (Monopalm) on the same site and approximately 240 feet southeast of the existing Wireless Communication Facility, Non-Stealth Design located on the adjacent parcel directly to the west of the subject site as the proposed site already contains a Wireless Communication Facility, Stealth Design (Monopalm). A previous Site Development Plan Review (SDR-30411) submitted for Conditional Use approval was administratively denied by the Planning and Development Department, thereby requiring the approval of a Special Use Permit. Due to the existing approved Wireless Communication Facilities on the subject site and on the adjacent parcel to the west, staff recommends denial of this request to prevent an oversaturation of this use within the immediate 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.

**SUP-32816 - Staff Report Page Six**  
**April 9, 2009 - Planning Commission Meeting**

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 Wireless Communication Facility, Stealth Design fails to meet condition number five as there is already an existing 80-foot Wireless Communication Facility, Stealth Design (Monopalm) on the subject site, and an existing 111-foot Wireless Communication Facility, Non-Stealth Design located on the adjacent parcel directly to the west of the subject site. The addition of another wireless facility will result in an oversaturation of the uses in the area, and will not be compatible with surrounding residential uses.

- **Site Plan**

The proposed Wireless Communication Facility is to be located near the front of an existing commercial development along Sahara Avenue, within the landscape buffer, set back approximately 20 feet from the front property line, and approximately 16 feet from the side property line. All of the electrical equipment associated with the proposed Wireless Communication Facility will be housed within an enclosure to be constructed adjacent to the proposed flagpole.

Directly abutting the proposed location to the east is a commercial center and to the north is an apartment complex. To the west is an existing Convenience Store with fuel pumps, and to the south is a shopping center. Title 19.08.060 Residential Adjacency Setback Standards require a minimum separation of 210-feet from protected property. The proposed communication facility will be approximately 300-feet from the protected property to the east, which meets the minimum Residential Adjacency Setback requirements. While the proposal meets the Residential Adjacency requirements, the Wireless Communication Facility will still be visible from the single-family homes to the east and impact the adjacent properties. Due to the oversaturation of approved Wireless Communication Facilities on the subject property and the adjacent property immediately to the west, and the impact this proposal will have on the surrounding residential area, staff recommends denial of this request.

## **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.**

**SUP-32816 - Staff Report Page Seven**  
**April 9, 2009 - Planning Commission Meeting**

The proposed Wireless Communication Facility does not meet these requirements as it is planned for a parcel which already contains an 80-foot Wireless Communication Facility, Stealth Design (Monopalm). In addition, the parcel directly to the west also contains a 111-foot Wireless Communication Facility, Non-Stealth Design, which is approximately 65 feet away from the existing Monopalm. If this request is approved there would be three (3) Wireless Communication Facilities within an approximate 140-foot radius, resulting in an oversaturation of this use, which is neither compatible nor harmonious with surrounding residential land uses.

**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 land use proposed as the addition of a Wireless Communication Facility, Stealth Design (Flagpole) on a parcel which already contains a Wireless Communication Facility, Stealth Design (Monopalm) will create an oversaturation of the use on the site.

**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.**

There is little expected traffic related with a Wireless Communication Facility at the subject site. Sahara Avenue, a 120-foot Primary Arterial as defined by the Master Plan Streets and Highways, will provide adequate access to the subject property.

**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 approval of this request would create an oversaturation of Wireless Communication Facilities within the immediate area and would not be consistent with the overall objectives of the General Plan by creating an oversaturation of one use on the subject site. The proposed 70-foot Wireless Communication Facility will have an additional visual impact on the nearby residentially zoned properties, as the proposed flagpole and the two (2) existing Wireless Communication Facilities would be, and are visible from these residentially zoned properties.

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

The proposed 70-foot Wireless Communication Facility, Stealth Design (Flagpole) meets the minimum requirements for a Wireless Communication Facility, Non-Stealth Design with the exception of condition number five. The site has been determined to not be compatible with this use, as there is already an 80-foot tall Wireless Communication Facility, Stealth Design (Monopalm) on the subject property, and an additional 111-foot tall Wireless Communication Facility, Non-Stealth Design on the adjacent parcel immediately to the west.

**SUP-32816 - Staff Report Page Eight**  
**April 9, 2009 - Planning Commission Meeting**

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 9

**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 765

**APPROVALS** 0

**PROTESTS** 16