



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MAY 14, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-33848 - APPLICANT: CLEARWIRE US, LLC - OWNER: NELLIS WFT, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a parking Variance to allow 26 parking spaces where 27 are required at 1511 North Nellis Boulevard. This application stems from an associated Special Use Permit (SUP-33253) application for the installation of a proposed 70-foot tall Wireless Communication Facility, Non-Stealth Design (Slimline Monopole) within the parking lot of an existing tavern. The installation of the proposed Wireless Communication Facility would result in the elimination of one parking space. This is an approximate four percent (4%) reduction of required parking on a parking impaired site, which by today's standards is already sixty percent (60%) deficient in itself. This request does not meet the criteria for granting a Variance, and staff is recommending denial of this application, as well as the associated Special Use Permit (SUP-33253).

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/15/04	Code Enforcement (#13112) processed a complaint for possible code violations at 1511 North Nellis Boulevard. The case was resolved on 05/08/04.
09/25/08	The Department of Planning and Development denied a request for an administrative review of a Wireless Communication Facility, Non-Stealth Design at 1511 North Nellis Boulevard.
<i>Related Building Permits/Business Licenses</i>	
1959	Construction of building.
01/02/91	A building permit (#91093444) was issued for a building remodel and parking lot addition at 1511 North Nellis Boulevard. The permit was finalized on 04/02/91.
01/03/91	A building permit (#91093531) was issued for building remodel and parking lot addition at 1511 North Nellis Boulevard. The permit was finalized on 04/02/91.
04/08/91	A business license (C20-01444) was issued for convention hall gaming tax at 1511 North Nellis Boulevard. The business license is active.
04/08/91	A business license (G07-00002) was issued for gaming, non-restricted limited at 1511 North Nellis Boulevard. The business license is active.
04/08/91	A business license (R09-00372) was issued for a restaurant at 1511 North Nellis Boulevard. The business license is active.
11/05/98	A building permit (#98021998) was issued for a sign (tag #003348) at 1511 North Nellis Boulevard. The permit was finalized on 02/18/99.
03/20/00	A business license (L24-00011) was issued for a liquor caterer at 1511 North Nellis Boulevard. The business license was marked out on 06/27/08.

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10/08/03	A business license (L16-00028) was issued for a tavern at 1511 North Nellis Boulevard. The business license is active.
06/14/05	A business license (#C05-02399) was issued for a cigarette machine at 1511 North Nellis Boulevard. The business license is active.
06/14/05	A business license (C08-01701) was issued for a coin amusement machine at 1511 North Nellis Boulevard. The business license is active.
08/01/06	A building permit (#06004995) was issued for to replace existing panels on a sign with sheet metal and neon at 1511 North Nellis Boulevard. The permit expired on 05/19/07.
12/21/06	A building permit (#78609) was issued to replace a water heater at 1511 North Nellis Boulevard. The building permit is active.
06/13/07	A business license (#C05-02548) was issued for a cigarette machine at 1511 North Nellis Boulevard. The business license is active.
<i>Pre-Application Meeting</i>	
03/16/09	A pre-application meeting was held where the submittal requirements for a parking Variance were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required for this application, nor was one held.	
<i>Field Check</i>	
02/19/09	During a routine field check staff observed the subject site for the proposed Wireless Communication Facility, noting the adjacent residential properties to the west, and no existing landscape material to buffer the potential visual impact this Slimline Monopole will have on the adjacent neighbors. Graffiti was also noted on the far west perimeter wall.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.38

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Tavern	GC (General Commercial)	C-2 (General Commercial)
North	Mini-Storage Facility	GC (General Commercial)	C-2 (General Commercial)
South	Mini-Storage Facility	GC (General Commercial)	C-2 (General Commercial)
East	Commercial Center	CG [Commercial General (Clark County)]	C-2 [General Commercial (Clark County)]
West	Parking Lot	GC (General Commercial)	C-2 (General Commercial)

<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, the following parking standards apply:

Parking Requirement - 1991							
Use	Gross Floor Area or Number of Units	Required		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurants (B) Sit-down	5,268 SF	1:50 GFA Or 1:4 Seats, Whichever is Greater & 1:1 On-Duty Employee.	111	5	25	1	N
SubTotal			111	5	25	1	
TOTAL			116		26		
Percent Deviation			78%				
Parking Requirement - 2009							
Use	Gross Floor Area or Number of Units	Required		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Tavern	5,268 SF (2,756 Public; 2,512 Non-Public)	1:50 Public GFA & 1:200 Non-Public GFA	65	3	25	1	N
SubTotal			65	3	25	1	
TOTAL			68		26		
Percent Deviation			62%				
							NE

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ANALYSIS

This is a request for a parking Variance to allow 26 parking spaces where 27 are required for a parking impaired site at 1511 North Nellis Boulevard. The applicant is proposing to install a 70-foot tall Wireless Communications Facility within the existing parking lot, thereby eliminating one parking space and causing a four percent (4%) reduction in the required parking. The parcel to the west of the subject site is under common ownership and includes an additional 31 parking spaces, but pursuant to Title 19.10.010(D)(2), the spaces cannot be counted toward the total parking requirement as they are located on a separate parcel from the principle use, and there is no off-site parking agreement recorded for the site.

The addition of the proposed Wireless Communications Facility precipitates a self-imposed hardship upon the parking impaired site by eliminating scarce required parking. As such staff cannot support this Variance request and is recommending denial of this application, as well as the associated Special Use Permit (SUP-33253).

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.

Additionally, Title 19.18.070L states:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed by proposing to construct a Wireless Communication Facility within a parking impaired site. Alternative site selection would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 14

SENATE DISTRICT 2

NOTICES MAILED 107

APPROVALS 0

PROTESTS 7