

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: MAY 14, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SUP-33253 - SPECIAL USE PERMIT -****APPLICANT: CLEARWIRE US, LLC - OWNER: NELLIS WFT, LLC**

**** 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, Non-Stealth Design use.
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. No signals, lights, or other attention gaining devices are to be installed on the Wireless Communication Facility, unless required by the Federal Communications Commission or the Federal Aviation Administration.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit to for a 70-foot tall Wireless Communication Facility, Non-Stealth Design (Slimline Monopole) on 0.38 acres at 1511 North Nellis Boulevard. An associated parking Variance (VAR-33848) request will also be considered, as the installation of the proposed Wireless Communication Facility would result in the elimination of one parking space. Therefore, precipitating an approximate four percent (4%) reduction of required parking on a parking impaired site, which by todays standards is already sixty percent (60%) deficient in itself.

Due to the incompatibility of the Non-Stealth Wireless Communication Facility with the single-family residences approximately 160 feet west of the subject site and the sites inability to mitigate the proposed uses visual intrusion by means of landscaping coupled with the decrease in scarce required parking on site, staff cannot support this application and is recommending denial.

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 finaled 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 finaled 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 finaled on 02/18/99.

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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.
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>	
12/30/08	A pre-application meeting was held where the submittal requirements for a Special Use Permit for a Wireless Communication Facility, Non-Stealth Design 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)]

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West	Parking Lot	GC (General Commercial)	C-2 (General Commercial)
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<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		Y

Project of Regional Significance

Pursuant to Ordinance No. 5227, the project under review meets the threshold that defines a Project of Regional Significance for a Special Use Permit application concerning property within 500 feet of the City boundary with Clark County or North Las Vegas. The applicant has prepared and submitted, as part of the overall project submittal, an impact report as required by the Ordinance for referral to affected agencies. As of 03/25/09, no comments or objections have been received from the other agencies notified.

DEVELOPMENT STANDARDS

Per Title 19.08.050 Commercial District Development Standards

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	16,575 SF	N/A
Min. Lot Width	100 FT	100 FT	Y
Min. Setbacks			
• Front	20 FT	118 FT	Y
• Side	10 FT	10 FT	Y
• Corner	15 FT	N/A	N/A
• Rear	20 FT	158 FT	Y
Min. Distance Between Buildings	N/A	25 FT	N/A
Max. Lot Coverage	50%	35%	Y
Max. Building Height (Wireless Communication Facility)	N/A	70 FT	N/A
Trash Enclosure	Screened, Gated, and Roofed	Y	Y
Mech. Equipment	Screened	Screened	Y

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ANALYSIS

- **Use**

The applicant is proposing a 70-foot tall, Wireless Communication Facility, Non-Stealth Design (Slimline Monopole) adjacent to the existing trash enclosure within an existing parking lot of a tavern on 0.38 acres at 1511 North Nellis Boulevard. Three (3) panel antennas will be mounted at the 68-foot centerline and three (3) microwave dishes will be mounted at the 65-foot centerline with three (3) dapheads mounted just below the microwave dishes, all within the interior of the Slimline Monopole. At the 40-foot centerline, parking lot lighting will be installed on the exterior of the pole. The subject Slimline Monopole offers the ability for co-location to other wireless carriers.

The proposed Wireless Communication Facility, Non-Stealth Design (Slimline Monopole) will be installed approximately 160 feet east of residentially zoned property. The subject site and the residentially zoned property to the west are separated by a separate parcel negating the applicability of Residential Adjacency Standards. The Wireless Communication Facilities enclosure will be installed adjacent to an existing trash enclosure, eliminating one (1) parking space within the existing parking lot. The applicant has submitted a request for a Variance (VAR-33848) to allow the reduction in parking. The eight-foot tall, block enclosure will have two (2), five-foot wide wrought iron gates providing access to the Wireless Communication Facility and its associated equipment cabinet.

Due to the incompatibility of the Non-Stealth Wireless Communication Facility with the single-family residences approximately 160 feet west of the subject site and the sites inability to mitigate the proposed uses visual intrusion by means of landscaping coupled with the decrease in scarce required parking on site, staff cannot support this application and is recommending denial.

- **Minimum Special Use Permit Requirements:**

- *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

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- b. Any pole or tower structure of any 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 nine (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) communication 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 the Federal Aviation Administration; provided, however, that this 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, buildings and the base of 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 notice is delivered or mailed to request a hearing. The failure to request a hearing shall be deemed to be 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.

**Items denoted with an asterisk (*) are not Waivable.*

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Although the parcel separating the subject site and the residentially zoned properties to the west negate the applicability of Residential Adjacency Standards, the proposed Wireless Communication Facility would still be approximately 160 feet east of single-family residences, causing a visual impact on those residences. Furthermore, the proposed Wireless Communication Facility is not in compliance with conditions number seven (7) and number eight (8), as the applicant has proposed to install parking lot lights at the 40-foot centerline where no such devices are permitted, and the subject site currently has zero live landscape material, and no landscape material has been proposed as part of this application to buffer the visual impact of the Wireless Communication Facility from the residential properties to the west. Pursuant to Title 19.04, conditions number seven (7) and number eight (8) are not Waivable.

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 Wireless Communication Facility is not compatible with existing surrounding land uses as the proposed site is approximately 160 feet away from single-family residences, creating an adverse visual impact to the adjacent residential properties.

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

The subject site is not physically suitable as the site is already parking impaired.

- 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. Nellis Boulevard, an 80-foot Collector Street as designated by the Master Plan of 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.**

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The proposed 70-foot tall Wireless Communication Facility will precipitate an adverse visual intrusion upon the surrounding community and therefore impact its welfare.

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

The proposed Wireless Communication Facility fails to meet conditions number (7) and number eight (8). The applicant has proposed parking lot lighting at the 40-foot centerline where no such devices are allowed, and the subject site currently has zero live landscape material with no landscape material being proposed as part of this application to buffer the visual impact of the Wireless Communication Facility from the adjacent residential properties to the west.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 14

SENATE DISTRICT 2

NOTICES MAILED 107

APPROVALS 0

PROTESTS 7