



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: OCTOBER 13, 2015

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: APC TOWERS – OWNER: LOUISE ANN BRENDA LIVING TRUST

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-60673	Staff recommends DENIAL, if approved subject to conditions:	
SUP-60674	Staff recommends DENIAL, if approved subject to conditions:	VAR-60673

** CONDITIONS **

VAR-60673 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-60674) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SUP-60674 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Wireless Communication Facility (Stealth Design) use.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-60673) shall be required.
3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
6. 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.
7. 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

The 1.93-acre subject site consists of a 2,133 square-foot single-family residence, two horse riding arenas and horse stalls at 7941 North Jones Boulevard. The applicant is proposing to construct an 80-foot tall Wireless Communication Facility (Stealth Design) at the southwest corner of the subject site. Per Title 19.12, a Wireless Communication Facility (Stealth Design) is a conditional use in the R-E (Residence Estates) zoning district. The proposal fails to adhere to all Minimum Conditional Use Regulations. Specifically, no residential use may be located on the property. The subject site currently contains an existing residential dwelling; therefore, a Special Use Permit is required. An associated Variance (VAR-60673) request will also be considered, as the installation of the proposed Wireless Communication Facility will not meet the required 240-foot residential adjacency standard. The Variance request is self-imposed in nature and will disrupt the continuity found within the surrounding residential neighborhood. Therefore, staff recommends denial of all application requests.

ISSUES

- Per Title 19.12, a Wireless Communication Facility (Stealth Design) is a conditional use in the R-E (Residence Estates) zoning district. The proposal fails to adhere to Conditional Use Regulation number 2, which does not permit a residential use on the subject site; therefore a Special Use Permit is required.
- A Variance is required to allow a residential adjacency setback of 13 feet where 240 feet is the minimum required.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
07/17/64	The Board of City Commissioners approved a Petition to Annex (A-0006-64) approximately 60 acres of property generally located on the west side of Decatur Boulevard extending five miles north of Craig Road.

<i>Most Recent Change of Ownership</i>	
06/10/10	A deed was recorded for a change in ownership.

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<i>Related Building Permits/Business Licenses</i>	
03/15/90	A building permit (#90068452) was issued for a 2,133 square-foot single-family residence at 7941 North Jones Boulevard. The permit received a final inspection on 10/09/90.
10/19/99	A business license (G50-03362) was issued for a stitching service at 7941 North Jones Boulevard. The license remains active.

<i>Pre-Application Meeting</i>	
08/04/15	A pre-application meeting was conducted with the applicant and representative to discuss locating a Wireless Communication Facility, Stealth Design at 7941 North Jones Boulevard. Staff concluded that a Special Use Permit would be required, as the proposal fails to adhere to all minimum conditional use regulations, specifically the requirement that prohibits a residential use from locating on the same property. In addition, a Variance would be required for residential adjacency setbacks.

<i>Field Check</i>	
09/03/15	Staff conducted a routine field check and noted a well maintained single family dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	1.93

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single-Family Detached	DR (Desert Rural Residential)	R-E (Residence Estates)
North	Single-Family Detached	DR (Desert Rural Residential)	R-E (Residence Estates)
South	Undeveloped	DR (Desert Rural Residential)	R-E (Residence Estates)
East	Single-Family Detached	R (Rural Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
West	Single-Family Detached	DR (Desert Rural Residential)	R-E (Residence Estates)

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<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
Rural Preservation Overlay District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

<i>Residential Adjacency Standards</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
3:1 proximity slope	240 Feet	13 Feet	N
Adjacent development matching setback	10 Feet	13 Feet	Y

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Jones Boulevard	Primary Arterial	Master Plan of Streets and Highways	105 Feet	Y

ANALYSIS

The applicant is proposing to construct an 80-foot tall Wireless Communication Facility, Stealth Design at 7941 North Jones Boulevard. The 1.93-acre subject site is located in an R-E (Residence Estates) zoning district. According to Title 19.12, a Wireless Communication Facility (Stealth Design) is defined 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.” According to the submitted justification letter and site plan, date stamped 08/12/15, the proposal meets this definition as the applicant is proposing a Wireless Communication Facility with an old west design concept. The antenna will

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be designed to appear as a camouflaged water tank antenna structure to be painted in earth tone colors. The antennas would locate within the interior of the water tank structure, and would not be visible from outside the tank.

The Minimum Conditional Use Permit Requirements for this use include:

1. No residential use may exist on the property.

The 1.93-acre subject site currently consists of a 2,133 square-foot single-family residence, two horse riding arenas and horse stalls at 7941 North Jones Boulevard. The proposed use does not adhere to this regulation; therefore a Special Use Permit is required. According to the submitted justification letter, date stamped 08/12/15, the communication provider is seeking to improve the coverage capacity and performance in the area of Jones Boulevard and Grand Teton Drive. However, there are no commercial properties within 1.5 miles of the intersection, making it difficult to meet this requirement.

2. The design must conform to the definition of the term “Wireless Communication Facility, Stealth Design,” as set forth in LVMC 19.18.020 and as determined by the Director.

According to the submitted justification letter and site plan, date stamped 08/12/15, the proposal meets this definition as the applicant is proposing a Wireless Communication Facility with an old west design concept. The antenna will be designed to appear as a camouflaged water tank antenna structure to be painted in earth tone colors. The antennas would locate within the interior of the water tank structure, and would not be visible from outside the tank.

3. 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.

The subject site has not been designated to be within the Historic Preservation District.

4. 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.

The old west design proposal was selected to be compatible with the surrounding horse properties found within the surrounding rural neighborhood. In addition to a water tank design, the proposal includes the installation of an eight-foot tall cedar-wood stockade fence to screen the Wireless Communication Facility and associated mechanical equipment.

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5. 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).

According to the submitted justification letter, date stamped 08/12/15, the proposal will follow all Federal Communication Commission standards and guidelines.

The proposed project does not adhere to the minimum residential adjacency setback requirement. The proposed communication facility will be approximately 13 feet from the protected property to the south and 25 feet from the protected property to the west, which does not meet the minimum Residential Adjacency Setback requirements of 240 feet. The applicant has submitted an associated Variance (VAR-60673) to address the issue. The request represents a 95% deviation from standard. The applicant could relocate the facility to the northeast portion of the subject site and adhere to minimum Residential Adjacency Standards. The Variance request is self-imposed in nature and will disrupt the continuity found within the surrounding residential neighborhood. Therefore, staff recommends denial of all application requests.

FINDINGS (VAR-60673)

In accordance with the provisions of Title 19.16.140(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 19.16.140(L) 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 hardship by proposing an 80-foot tall Wireless Communication Facility which would require a 240-foot setback to the nearest protected property. Alternative facility design and placement would allow conformance to the Residential Adjacency Standards

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outlined by Title 19. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (SUP-60674)

In order to approve a Special Use Permit application, per Title 19.16.110(L) 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 80-foot tall Wireless Communication Facility, Stealth Design is compatible with the DR (Desert Rural Residential) land use designation, but the excessive height provides evidence that the facility is not compatible with the surrounding residential neighborhood.

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

The subject site is physically suitable for the type and intensity of the proposed 80-foot tall Wireless Communication Facility, Stealth Design use. However, the proposed location on the subject site requires a Variance for residential adjacency standards.

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 overall site is accessed by Jones Boulevard, designated as a 100-foot wide Primary Arterial by the Master Plan of Streets and Highways, which is adequate to support the Wireless Communication Facility, Stealth Design 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.

Approval of this Special Use Permit is inconsistent with the objectives of the General Plan, which seek to enhance the visual quality of development within the city and strengthen urban design standards.

5. The use meets all of the applicable conditions per Title 19.12.

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Per Title 19.12, a Wireless Communication Facility (Stealth Design) is a conditional use in the R-E (Residence Estates) zoning district. The proposal fails to adhere to Conditional Use Regulation number 2, which does not permit a residential use on the subject site; therefore a Special Use Permit is required.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 21

NOTICES MAILED 140

APPROVALS 0

PROTESTS 0