



AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: MARCH 20, 2024
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT: NEW CINGULAR WIRELESS PCS, LLC -
OWNER: THE LOUISE ANN BENDA LIVING TRUST

** STAFF RECOMMENDATION(S) **

Table with 3 columns: CASE NUMBER, RECOMMENDATION, and REQUIRED FOR APPROVAL. It contains two rows of staff recommendations for cases 23-0624-VAR1 and 23-0624-SUP1.

** NOTIFICATION **

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 20

NOTICES MAILED 144 (by City Clerk)

PROTESTS 3 - 23-0624-VAR1, 23-0624-SUP1

APPROVALS 0

**** CONDITIONS ****

23-0624-VAR1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (23-0624-SUP1) shall be required, if approved.
2. Land use application, notification, and recordation fees for Variance (23-0624-VAR1) shall be paid prior to the issuance of a building permit.
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 Building and Safety Division.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

23-0624-SUP1 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Variance (23-0624-VAR1) shall be required, if approved.
2. Land use application, notification, and recordation fees for Special Use Permit (23-0624-SUP1) shall be paid prior to issuance of a building permit.
3. Conformance to the approved conditions for Special Use Permit (SUP-60674).

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4. 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.
5. 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 Building and Safety Division.
6. 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.
7. 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.
8. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The application is to modify an existing Wireless Communication Facility, Stealth Design tower within the scope of 47 U.S.C. §1455 (United States Code) located at 7941 North Jones Boulevard.

ISSUES

- Pursuant to 47 U.S.C. §1455, the proposed collocation of an existing wireless communications facility qualifies as an “Eligible Facilities Request” as the proposed modifications are not defined as a “Substantial Change” as defined in 47 C.F.R § 1.6100 (b)(7).
- A Major Amendment (23-0624-SUP1) to an approved Special Use Permit (SUP-60674) is requested for a proposed expansion of an existing Wireless Communication Facility, Stealth Design use. Staff supports this request.
- A Variance (23-0624-VAR1) is requested to allow a 13-foot residential adjacency setback where 270 feet is required. Staff support this request.
- Conditions of approval have been added requiring the payment of application fees for Variance (23-0624-VAR1) and Special Use Permit (23-0624-SUP1) prior to the issuance of a building permit.

ANALYSIS

The subject site is an R-E (Residence Estates) zoned property and is subject to Title 19 development standards. On October 13, 2015, the Planning Commission approved a Special Use Permit (SUP-60674) for a proposed 80-foot tall Wireless Communication Facility, Stealth Design use. Additionally, the Planning Commission approved a Variance (VAR-60673) to allow a 13-foot residential adjacency setback where 240 feet is required. The applicant is now proposing to vertically extend the 80-foot tower by 10 feet. As residential adjacency standards still apply per Title 19.06.040, a new Variance (23-0624-VAR1) is requested to allow a 13-foot residential adjacency standard where 270 feet is required. As the expansion of the previously approved Wireless Communications Facility, Stealth Design use does not qualify under the requirements for minor amendments set forth in Title 19.16.110, a Major Amendment to an approved Special Use Permit (SUP-60674) is therefore required.

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The City of Las Vegas acknowledges that the proposed modifications to the existing Wireless Communications Facility qualify as an “Eligible Facilities Request” as defined in 47 U.S.C. § 1.455 which provides that a state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. While a new Variance (23-0624-VAR1) is required for deviating from the intensified residential adjacency requirement as a result of heightening the existing tower by 10 feet, staff finds a unique circumstance has been presented as mentioned in 47 U.S.C. § 1.455 to allow the approval of the reduction of the residential adjacency setback. Therefore, staff recommends approval of both entitlements, subject to conditions.

FINDINGS (23-0624-VAR1)

In accordance with the provisions of Title 19.16.140(B), the 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.”

Due to the unique circumstance aforementioned in United States Code, staff finds sufficient evidence has been presented to allow approval of the requested reduction in residential adjacency setbacks. Therefore, it is concluded that the applicant’s hardship is not preferential in nature, and it is thereby within the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (23-0624-SUP1)

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.**

While a Variance (23-0624-VAR1) for relief of residential adjacency requirements is requested, staff finds a unique circumstance has been presented to warrant the requested Variance. Therefore staff finds the requested expansion of an existing Wireless Communication Facility, Stealth Design 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.

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

The subject site is developed with a Residential, Single Family detached use on 0.97 acres. As the existing wireless tower is located towards the rear of the subject site, the expanded Wireless Communications Facility, Stealth Design use will remain physically suitable for the type and intensity of land use proposed.

- 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 subject property is accessed by Jones Boulevard, a 100-foot Primary Arterial as defined by the Master Plan of Streets and Highways and is adequate in size 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 Special Use Permit will be subject to permit review, therefore ensuring the public health, safety, and welfare or the overall objectives of the General Plan will not be compromised.

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

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

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, 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.
10/13/15	The Planning Commission approved a Variance (VAR-60673) to allow a residential adjacency setback of 13 feet where a minimum of 240 feet is required at 7941 North Jones Boulevard.
10/13/15	The Planning Commission approved a Special Use Permit (SUP-60674) for a proposed 80-foot tall Wireless Communication Facility, Stealth Design use at 7941 North Jones Boulevard.
09/10/18	A Conditional Use Verification (74514-CUV) was approved for a Wireless Communications Facility, Stealth Design (Water Tower) located at 7941 North Jones Boulevard.
03/14/19	A Conditional Use Verification (76069-CUV) was approved for collocation of equipment on a Wireless Communication Facility, Stealth Design tower at 7941 North Jones Boulevard.
03/30/21	A Conditional Use Verification (100316-CUV) was approved to install three panel antennas, six remote radio heads, one junction box, and one hybrid cable on an existing Wireless Communication Facility, Stealth Design tower at 7941 North Jones Boulevard.
04/20/21	A Conditional Use Verification (100331-CUV) was approved for a modification to an existing Wireless Communication Facility, Stealth Design tower at 7941 North Jones Boulevard.

Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.	
07/29/21	A Conditional Use Verification (100442-CUV) was approved to install three new antennas and RRU's, install ancillary equipment on an existing tower, and install two equipment cabinets in existing lease area at 7941 North Jones Boulevard.
02/13/24	<p>The Planning Commission voted (7-0) for possible action on the following Land Use Entitlement project requests on 0.97 acres at 7941 North Jones Boulevard (APN 125-14-504-007), R-E (Residence Estates) Zone, Ward 6 (Brune).</p> <p>23-0624-VAR1 - VARIANCE - TO ALLOW A 13-FOOT RESIDENTIAL ADJACENCY SETBACK WHERE 270 FEET IS THE MINIMUM REQUIRED</p> <p>23-0624-SUP1 - SPECIAL USE PERMIT - FOR A MAJOR AMENDMENT TO AN APPROVED SPECIAL USE PERMIT (SUP-60674) FOR THE PROPOSED EXPANSION OF AN EXISTING WIRELESS COMMUNICATION FACILITY, STEALTH DESIGN USE</p>

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

Related Building Permits/Business Licenses	
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.
05/13/21	A Building Permit (C21-01546) was issued to install three antennas, six RRU junction boxes, hybrid cable conduits and to install equipment cabinets on a new concrete pad and to install conduit fiber box and GPS antenna.
09/08/21	A Building Permit (C21-03481) was issued to remove and replace three antennas and mounts and install three diplexers and RRU's inside an existing water tank and add two BTS cabinets and ancillary equipment.
04/12/22	A Building Permit (C21-03078) was issued to swap hex port antennas, install new antennas on an existing Wireless Communication Facility, Stealth tower. The building permit was final on 07/08/22.

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Pre-Application Meeting	
11/27/23	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Special Use Permit and Variance.

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
01/09/24	Staff conducted a routine field check of the subject property and observed an existing stealth wireless communications tower. Nothing of concern was noted.

Details of Application Request	
Site Area	
Gross Acres	0.97

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Residential, Single Family Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
	Wireless Communication Facility, Stealth Design		
North	Undeveloped	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Undeveloped	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Residential, Single Family Detached	R (Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
West	Residential, Single Family Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Tule Springs	N/A
Special Area and Overlay Districts	Compliance
No Applicable Special Area or Overlay Districts	N/A
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	270 Feet	13 Feet	N*

*A Variance (23-0624-VAR1) is requested to allow a 13-foot residential adjacency setback where 270 feet is required.