

**** CONDITIONS ****

24-0491-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Wireless Communication Facility, Non-Stealth Design use.
2. 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.
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, as well as submitted as part of any business license application.
6. 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 application is requesting to increase the height of an existing wireless communication monopole from 43 feet to 56 feet and relocate existing antennas to a height of 53 feet. This requires approval of a Special Use Permit for a Wireless Communication Facility, Non-Stealth Design use.

ISSUES

- Pursuant to 47 USC §1455, the proposed extension of a tower to accommodate collocation of antennas on an existing wireless communications facility qualifies as an “eligible facilities request,” and the proposed modifications do not qualify as a “substantial change” as defined in 47 CFR § 1.6100 (b)(7).
- The existing monopole was approved through a building permit in 1997, and no Special Use Permit for a Wireless Communication Facility has previously been approved for this facility.
- The request did not qualify for conditional use approval under Title 19.12, as a 30 percent increase in height of the tower was deemed by the Director of the Department of Community Development not to meet Conditional Use Regulation 1a of the Wireless Communication Facility, Non-Stealth Design use. A Special Use Permit was therefore required.

ANALYSIS

This site is zoned C-1 (Limited Commercial) and part of a development containing a mini-storage facility, hospital and office uses, each on its own legal lot. The existing tower was approved through a building permit in 1997. No Special Use Permit for a Wireless Communication Facility has previously been approved for this facility. This tower is located approximately 560 feet from the nearest single-family residential use.

The applicant is proposing to increase the height of the existing 43-foot tall non-stealth monopole to 56 feet and collocate Dish 5G Wireless antennas at a centerline height of 53 feet in order to increase signal strength and coverage. The existing Dish antennas are currently at 31 feet from grade and would be relocated to the top of the tower. The ultimate height of the facility would be approximately 58 feet from the base.

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The subject tower is located approximately 315 feet west of the Valley View Boulevard public right-of-way, at the northeast corner of the mini-storage facility. The closest wireless tower is approximately 715 feet to the northeast of this site and the closest residential zoning district is approximately 515 feet to the south. The existing wireless facility is partially screened from view by the east wall of the mini-storage facility and a row of mature trees located in a park to the north.

A request for conditional use verification (101653-CUV) was reviewed by Community Development staff. A determination was made that the proposed 30 percent increase in the height of the tower did not meet Conditional Use Regulation 1a of the Wireless Communication Facility, Non-Stealth Design use. Therefore, a Special Use Permit at a public hearing would be required.

The Wireless Communication Facility, Non-Stealth Design use is defined as “a wireless communication facility that does not qualify as a stealth design wireless communication facility,” which is defined as “a wireless communication facility that is designed to blend into the surrounding environment.” The facility was designed and approved as a gray pole structure with two unscreened antenna arrays having similar coloration. There are no additional features of the facility designed to blend into the surrounding environment.

The Minimum Special Use Permit Requirements for this use include:

1. No residential use may exist on the property.

The proposed use meets this requirement, as all uses on the subject site are commercial uses.

2. Any antenna tower that forms part of the facility shall conform with both the setback requirements of the zoning district and the applicable residential adjacency standards of this Title.

The proposed does not meet this requirement, as the facility does not meet the 10-foot side yard setback requirement of the C-1 District. However, the facility was approved in 1997 with the current setback and is therefore deemed to be legally nonconforming.

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
 - b. Any pole or tower structure of any other type that has a height of at least 60 feet.

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The proposed use meets this requirement, as the nearest Wireless Communication Facility tower or tower structure with a height of more than 60 feet is located approximately 715 feet to the northeast of this facility.

4. Antenna towers and associated components shall be initially painted and thereafter repainted with a 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.

The proposed use meets this requirement, as the existing tower is painted a flat gray color and all proposed components will be similarly painted.

5. Failure to perform necessary maintenance and repainting shall be grounds for administrative and other enforcement action, including action pursuant to Requirement 9 below.

The proposed use meets this requirement, as field operations personnel conduct annual site visits and maintenance.

6. Any proposed antenna tower must be designed to accommodate at least two communication providers or, in the case of a tower that exceeds 80 feet in height, at least 3 communications providers.

The proposed use meets this requirement, as the tower will continue to accommodate two communication providers after the proposed modifications are completed.

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.

The proposed use meets this requirement, as there are no signals, lights or other attention gaining devices installed on this tower, and none are proposed.

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.

The proposed use meets this requirement, as all ground level equipment is screened by an existing CMU wall.

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9. Any abandoned or unused antenna tower, and the associated components of any facility, shall be removed within 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.

The proposed use meets this requirement, as the applicant agrees to comply with these provisions regarding abandoned towers.

United States Code [47 USC 1455(a)] states that a state or local government may not deny, and shall approve, any “eligible facilities request” for modification of an existing wireless tower or base station that does not “substantially change” the physical dimensions of such tower or base station. An “eligible facilities request” involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment. A “substantial change” of an existing wireless tower outside the public right-of-way is further defined by the Code of Federal Regulations (47 CFR 1.6100) as a modification that increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater.

In this case, the applicant is requesting to collocate Dish 5G antennas on an existing wireless tower outside of the public right-of-way, qualifying this as an “eligible facilities request.” The modification allowed per Section 1.6100 is the height of the proposed collocated antenna array, which is eight feet, plus the separation distance between the top of the existing antenna array and the bottom of the collocated array, which is 4.5 feet. This would result in a 12.5-foot increase in antenna height and 13-foot tower increase overall. Under Section 1.6100, the maximum allowable height increase is approximately 28 feet; therefore, the larger increase is not considered a “substantial change” in the physical dimensions of an eligible support structure under Section 1.6100.

Although this request would increase the overall height of the existing tower by 30 percent, the increase is less than the allowable increase in height required to accommodate collocation. Thus, federal law compels the local government to approve what is considered not to be a substantial change in the physical dimensions of the wireless tower.

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Staff has determined that even with the proposed increase in height the existing tower will remain adequately screened by the existing trees to the north and the mini-storage facility. Therefore, the Wireless Communication Facility, Non-Stealth Design use would continue to be compatible with the surrounding land uses. Staff recommends approval, subject to conditions.

FINDINGS (24-0491-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.**

With the proposed modifications, the existing tower will remain adequately screened by the existing trees to the north and the mini-storage facility and will be compatible with the surrounding commercial uses, as well as residential uses to the west.

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

The existing wireless facility is located at the northeast corner of an existing mini-storage facility, only taking up approximately 100 square feet of surface area. The property can accommodate the increase of intensity of the Wireless Communication Facility, Non-Stealth Design use.

- 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.**

While the lot containing the existing use has frontage on Hinson Street, access to the site is from Valley View Boulevard, an 88 to 98-foot Major Collector Street as defined by the city's Master Plan of Streets and Highways. The roadway is sufficient to meet the requirements of the Wireless Communication Facility, Non-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.**

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Modifications to the existing wireless facility 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.

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

The facility as proposed meets all applicable conditions of the Wireless Communication Facility, Non-Stealth use. The facility is legally nonconforming with respect to the side yard setback in the C-1 District.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
11/15/89	The City Council approved a request for a Rezoning and Plot Plan Review (Z-0091-89) from R-E (Residence Estates) under Resolution of Intent to R-PD5 (Residential Planned Development - 5 Units per Acre), R-2 (Two-Family Residence) and P-R (Professional Offices and Parking to C-1 (Limited Commercial) as part of a larger request on 25.20 acres on the west side of Valley View Boulevard, south of Charleston Boulevard. The Plot Plan Review for the C-1 portion of the request included a one-story retail center on 1.50 acres and a one and two-story mini-storage facility on 2.00 acres. The Planning Commission and staff recommended approval.
07/20/90	A four-lot Parcel Map (PM-0036-90) on 19.79 acres on the west side of Valley View Boulevard, approximately 480 feet south of Charleston Boulevard, was recorded. The subject site is located on Lot 1.
12/12/91	The City Council approved a request for a Rezoning and Plot Plan Review (Z-0091-91) from R-E (Residence Estates) Under Resolution of Intent to P-R (Professional Office and Parking) to C-1 (Limited Commercial) for a proposed physical rehabilitation facility on property located west of Valley View Boulevard, south of Charleston Boulevard. The Planning Commission and staff recommended approval.
06/19/18	Department of Community Development staff approved a Conditional Use Verification (CUV-73716) for replacement of existing panels and equipment at an existing Wireless Communication Facility, Non-Stealth Design at 1202 South Valley View Boulevard. [T-Mobile]
08/03/20	Department of Community Development staff approved a Conditional Use Verification (100057-CUV) for replacement of existing antennas and equipment at an existing Wireless Communication Facility, Non-Stealth Design at 1202 South Valley View Boulevard. [T-Mobile]

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Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc. (cont.)

07/19/21	Department of Community Development staff approved a Conditional Use Verification (100268-CUV) for the collocation of antennas with associated equipment at an existing Wireless Communication Facility, Non-Stealth Design at 1202 South Valley View Boulevard [Dish Wireless].
08/08/24	Department of Community Development staff denied a Conditional Use Verification (101653-CUV) for a 13-foot height increase of an existing Wireless Communication Facility, Non-Stealth Design with relocation of existing antennas at 1202 South Valley View Boulevard [Dish Wireless].

Most Recent Change of Ownership

08/09/94	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

01/06/97	A building permit (#97000170) was issued for a cellular telephone site at 1202 South Valley View Boulevard. A final inspection was completed 02/24/97.
09/09/20	A building permit (C20-03076) was issued for replacement of antennas and equipment at an existing wireless facility at 1202 South Valley View Boulevard. A final inspection was approved 1/26/21.
07/19/21	A building permit (C21-01235) was issued for collocation of antennas with associated equipment at an existing Wireless Communication Facility, Non-Stealth Design at 1202 South Valley View Boulevard. A final inspection has not been completed.

Pre-Application Meeting

09/16/24	A pre-application meeting was held with the applicant to discuss submittal requirements for a Special Use Permit application.
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Neighborhood Meeting

A neighborhood meeting was not required, nor was one held.	
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Field Check	
10/03/24	A wireless communication tower was observed adjacent to the northeast corner of an existing screened mini-storage facility, which is located away from the Valley View Boulevard and Hinson Street frontages. The existing Dish antennas were observed as the second array below the top of the pole. The wireless pole appeared to be well maintained and screened by mature pine trees within a park area to the north. No issues were noted.

Details of Application Request	
Site Area	
Net Acres	1.99

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Wireless Communication Facility, Non-Stealth Design	TOC-1 (Transit Oriented Corridor - High)	C-1 (Limited Commercial)
	Mini-Storage Facility		
North	Park or Playground [Private]	TOC-1 (Transit Oriented Corridor - High)	C-1 (Limited Commercial)
South	Hospital	TOC-1 (Transit Oriented Corridor - High)	C-1 (Limited Commercial)
East	Office, Medical or Dental	TOC-1 (Transit Oriented Corridor - High)	C-1 (Limited Commercial)
	Office, Other Than Listed		
West	Residential, Single Family, Detached	TOC-1 (Transit Oriented Corridor - High)	R-E (Residence Estates)

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<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Charleston	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (175 Feet)	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails (Shared Use Trail) - E side of Hinson St - constructed	Y
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