

**MINUTES
CITY OF NORTH LAS VEGAS
PLANNING COMMISSION**

September 23, 2009

BRIEFING: 5:42 P.M., Conference Room, North Las Vegas City Hall, 2200 Civic Center Drive

CALL TO ORDER: 6:00 P.M., Council Chambers, North Las Vegas City Hall, 2200 Civic Center Drive

ROLL CALL: Chairman Dean Leavitt - Absent
Vice-Chairman Steve Brown - Present
Commissioner Jay Aston - Absent
Commissioner Jo Cato - Present
Commissioner Dilip Trivedi - Present
Commissioner Laura Perkins - Present
Commissioner Joseph DePhillips - Present

STAFF PRESENT: Frank Fiori, P & Z Director
Marc Jordan, Planning Manager
Robert Eastman, Principal Planner
Bethany Sanchez, Deputy City Attorney II
Jennifer Doody, Development & Flood Control
Vidya Medisetty, Public Works
Mike Steele, Fire Department
Jose Rodriguez, Police Department
Ernie Buo, Utilities
Jo Ann Lawrence, Recording Secretary

WELCOME: Vice-Chairman Steve Brown

VERIFICATION: Jo Ann Lawrence, Recording Secretary

PLEDGE OF ALLEGIANCE: Commissioner Joseph DePhillips

PUBLIC FORUM

There was no public participation.

Item No. 3 was heard next.

MINUTES

- **APPROVAL OF THE MINUTES FOR THE PLANNING COMMISSION MEETING OF AUGUST 26, 2009.**

ACTION: APPROVED

MOTION: Commissioner Trivedi

SECOND: Commissioner Cato

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 1 was heard next.

NEW BUSINESS

1. **UN-51-09 (39602) CONVERSION (PUBLIC HEARING). AN APPLICATION SUBMITTED BY CAMBRIDGE PLACE, LLC, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO ALLOW A GARAGE CONVERSION. THE PROPERTY IS LOCATED AT 2732 BERG STREET. THE ASSESSOR'S PARCEL NUMBER IS 139-13-311-039.**

The application was presented by Marc Jordan, Planning Manager who explained the applicant indicated they had a single car garage approximately 276 square feet which had already been converted when the property was purchased. The house was built in 1956 and was approximately 960 square feet. The applicant must demonstrate there have been three other conversions within 300 feet of their property, which was submitted. The applicant must also be able to provide two off-street parking spaces with a minimum width of 18 feet and a length of 20 feet and the applicant indicated they could provide 30 feet in length but only 17 feet in width. The Public Works Department indicated the project did not comply with the Clark County Uniform Standard Drawing 222, which was a seven foot setback from the property line, as the driveway was actually on the property line. Because the applicant has not demonstrated compliance with an 18 foot wide driveway or Clark County Standard Drawing 222, Staff was recommending that UN-51-09 be denied. Should the Commission determine approval was warranted, the following conditions were recommended:

1. Unless expressly authorized through a variance, waiver or another approved method, development shall comply with all applicable codes, ordinances and the Single-Family Design Guidelines.
2. A parking area sufficient for two vehicle off-street parking spaces with the minimum dimensions of 18 feet in width by 20 feet in length must be provided.

Keith Yackey, 529 Wandering Violets Way, Las Vegas, NV indicated he understood Staff's recommendation and explained he purchased the property in its current condition and was willing to comply with Staff recommended conditions. He understood the wall was causing the problem and he was willing to remove it to widen the driveway.

Vidya Medisetty of Public Works stated according to Clark County Standard Drawing 222, the driveway must be separated a minimum of seven feet from the property line.

Commissioner Dilip Trivedi asked if it would be unsafe if the driveway was left as it was and add one foot to the other side to make it 18 feet wide and asked to see an aerial of the site or a diagram of the driveway setback requirements.

Mr. Medisetty explained the diagram showed there must be a seven foot minimum setback from the property line.

Commissioner Trivedi was okay with leaving the driveway as it was and adding one foot to the other side.

Vice-Chairman Steve Brown asked if the property was modified to make a one car driveway, or if the home was built that way.

Mr. Jordan explained the property was built in 1956 and he was not familiar with the driveway requirements in place at that time, but it probably was legal when it was built.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

2. **UN-53-09 (39630) DORRELL COMM. SITE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY TURN-KEY TELECOM, LLC ON BEHALF OF LAACO LTD, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A C-1, NEIGHBORHOOD COMMERCIAL DISTRICT TO ALLOW A MULTIPLE TOWER FACILITY CONSISTING OF TWO (2) 100 FOOT TELECOMMUNICATION TOWERS; AND MODIFICATION TO THE SETBACK DISTANCE REQUIREMENT TO RESIDENTIAL ZONED PROPERTY TO ALLOW A 16' 8" AND 32' 8" SETBACK FROM THE NORTH AND SOUTH TOWER WHERE A 200 FOOT SETBACK IS REQUIRED. THE PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF DORRELL LANE AND COMMERCE STREET. THE ASSESSOR'S PARCEL NUMBER IS 124-22-101-014.**

The application was presented by Marc Jordan, Planning Manager who explained each tower was proposed to be 100 feet in height and would be a monopalm type tower. An ordinance amendment was approved where a multiple tower facility could be requested, with each tower having up to five carriers. In this application, the applicant was proposing two towers and they also had their appropriate equipment area screened by a block wall. The site plan showed what appeared to be the possibility of three additional towers to be located on the site and also additional equipment for the future. In reviewing the request, Staff had a number of issues. The applicant had not demonstrated compliance with the landscaping requirements for commercial developments adjacent to residential. There was a 20 foot landscape requirement and the plan only showed 10 feet of landscaping. In addition, where the applicant was proposing to locate the cell tower, which was in the northeast corner of the site, which was closer to Commerce Street, Staff was recommending, if the item was approved, that there be landscaping provided between Commerce Street and the wall of the facility, which on the north side, would be approximately 140 feet in length and approximately 94 feet in length on the south side because Staff did not like to see undeveloped or exposed dirt areas as part of the site and the area was too small to develop with anything else. Also, both cell towers do not comply with the guidelines for varying heights. For multiple towers, the heights had to be varying at least 10 feet and in this case, both towers were 100 feet in height and were stealth design, but showed microwave antennas that protrude from the towers approximately four feet, which does not comply with the definition of a stealth design or a slim line pole design. Staff was recommending denial of UN-53-09 because it did not meet the Commercial Design Guidelines or the multiple tower facility requirements. Specifically, the applicant was showing microwave dishes on the towers that protrude out approximately four feet, which did not comply with the stealth design, as they were not flush mounted. The individual towers in the multiple facility did not contain the varying heights of a minimum of at least ten feet for each tower and in the case for a modification of the setback requirement, the applicant should demonstrate that the setbacks cannot be met on the parcel upon which the tower is proposed to be located and that the alternatives are to

locate the tower at another site, which was closer in proximity to residential zoned property. Mr. Jordan explained he was outlining the reasons for the Commission to consider supporting a modification to the setback requirements from residential; however, it was Staff's opinion that the applicant could relocate the towers to the southerly side of the property, thereby meeting the 200 foot setback or at least coming closer to meeting the 200 foot setback. He pointed out the site previously had a cell tower approved in the location referred to by Staff, which had expired and earlier this year and the Commission approved a temporary cell tower on wheels within the same area, which showed it came closer to complying with the setbacks. The applicant had not demonstrated they were complying with the landscaping requirements of the Commercial Design Standards of 20 feet on the northerly property line and, in addition, indicated the future mini-warehousing complex and where the towers were proposed, would either block emergency access or customer access, so Staff was unsure how the towers would fit into the future design of the site when the mini-warehousing facility was constructed.

Debbie DePompei, 8432 Justine Court, Las Vegas, NV appeared on behalf of the applicant giving some history on their efforts of trying to lease and zone a site in the proposed area. She explained much of the property in the area was undeveloped and there was limited commercial opportunities in which to locate. She explained they had planned to develop on the southwest corner of the parcel when the site was to be developed as a mini-storage facility by Storage West; however, both approvals had since expired because Storage West put their plans to build a mini-storage on hold due to the slow down in the market conditions and would not allow them to build a permanent tower on the site until they knew their plans for the future. They had contacted the residential property owners to the north and commercial property owners to the west and received three interested property owners and started working with the property owner who owned all of the commercial to the west and also two residential properties, who would not lease any of the commercial property because he planned to sell the property, but would allow them to locate on a residential zoned property, so they submitted an application for that site, which was denied by Planning Commission. They filed an appeal and hired a consultant to meet with City Council to get their input before the appeal was heard and the consensus was that Council would not support a tower on residential property and encouraged them to seek commercial property, possibly on a temporary basis. They applied for a temporary tower on the proposed site, but it was considered as a temporary building as the code does not address temporary communication facilities, and was approved with the condition that it could only remain there for one year from the date of approval and there were some stringent conditions for improvements from Public Works and it was not financially feasible so it was not pursued. Ms. DePompei explained the current location for the tower was chosen by Storage West, as they wanted it located at the rear of the site, so the tower would be out of the way of any future construction of the mini storage. When the property owner builds the mini storage facility, the intent was to relocate the tower to the southwest corner of the parcel as originally approved. It was in the agreement with Storage West that they would provide the applicant with a one year

notice of the intent to develop, which would give time for the applicant to re-permit the site for a permanent tower.

Ms. DePompei stated they had met with Public Works and were in agreement with their conditions and had talked to the Fire Department regarding their concerns with blocking the access drive in the back and had no problems with that, as they would be moving the site out of the access drive if the site was developed as a mini storage facility with the building shown on the original plans. She asked for clarification on Condition No. 4 as it contradicted the definition for stealth design for a monopalm because they typically have full array antennas that are within the top palm tree fronds that protrude and then anyone who co-locates on the towers are flush mounted to the tower. She requested that the condition be amended to state that "all antennae arrays co-located below the palm tree fronds shall be flush mounted." Condition No. 5 states microwave dishes were prohibited, but the Code did not state microwave dishes were prohibited and Ms. DePompei explained microwave dishes were antennas used by the carriers to bring telephone service to the site when T-1 lines were not readily available in the area, as without telephone service, the cell tower could not operate. The plans were revised to show the microwave dishes were flush mounted to the pole so they were not protruding four feet. Condition Nos. 8 and 9 were requiring a 20 foot landscape buffer and a written request to waive those conditions was submitted, as the tower was only occupying less than two percent of the parcel and was not the principle use on the site. Once the site was developed, the landscaping would be installed by the property owner and she requested the landscaping be waived or the conditions be amended to state that the landscaping would be installed at such time the principle use was constructed. She asked that Condition No. 10 be amended to read: "That one tower would be setback a minimum of 16 feet 8 inches from the northern property line and the other tower shall be a minimum of 32 feet 6 inches from the northern property line." They applied to build the site as a multiple tower facility, which included the two 100 foot monopalm towers because they had immediate carrier interest from AT & T and Cricket and they intended to zone the second palm tree tower at this time because they knew once the site was zoned, they would have interest from other carriers. The intent was to build only one tower and then come back to obtain a building permit for the second tower when they had additional carriers; but, they did not have a problem with the approval being reduced to allow one 100 foot tower to accommodate AT & T and Cricket and they would come back to request the second tower when they had additional carriers.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown closed the Public Hearing.

John Wright, 6 Sunset Way, B-108, Henderson, NV appearing on behalf AT & T Mobility concurred with comments made by Ms. DePompei and explained the tower was being constructed primarily for AT & T and there was a tremendous need for a tower in that area. He pointed out the development was not what was expected, but there was a high school

and other residential that required the need for AT & T coverage, not only because of lack of coverage but also a capacity issue, as towers in the area could not support the number of calls being attempted. He was requesting to find a way to make the tower work and explained the microwave dish was a last case scenario and when phone service was in the area, the dish would be removed. He reiterated the tower could not function without a microwave dish. He clarified on the original application, they superimposed the original mini storage that was proposed to be built, so it gave the impression the tower would be blocking a fire access, but that was not the case, because if the mini storage was built, the tower would be relocated and built as a permanent facility, as the temporary facility did not meet any requirements.

Commissioner Dilip Trivedi understood the applicant was suggesting the tower would be temporary/permanent and asked if there was ranch estates property to the north already developed.

Ms. DePompei responded all of the property in the area was undeveloped, which was the problem they were running into. She explained everything to the north was residential and they tried to get a permanent site in residential but were unable to. The proposed site was the only commercial site available and everything to the south was BLM disposal boundary and schools would not lease to them.

Commissioner Trivedi inquired if the application was approved, if they were condemning the property to north.

Ms. DePompei responded she did not believe so, as they had been there five times previously and the property owners had been notified and had received no interest. From a development standpoint, they would be bringing power and utilities closer to the property.

Commissioner Trivedi asked Staff if the property to the west was C-3.

Mr. Jordan responded the property to the west was C-3.

Commissioner Trivedi asked the applicant if they had approached the property owner to the west.

Ms. DePompei responded they had approached the property owner to the west and he was not interested in leasing property as he planned to sell in the future.

Commissioner Trivedi asked Staff if a temporary permit could be issued with a time limit.

Mr. Jordan responded the application was for a permanent facility and explained in February 2009 a temporary tower was approved, so the applicant already had approval for

a temporary facility on the site, but not at the proposed location. The temporary approval was only for one year, but the applicant could apply for an extension of time.

Ms. DePompei interjected an extension of time would only give another year, so they would have a maximum ability to locate a tower at that property for two years and they do not know what the future holds, so they were looking for something more permanent.

Commissioner Trivedi stated he was not comfortable supporting the application, especially since the applicant was saying they would be willing to move the tower, but did not want any time restrictions.

Commissioner Laura Perkins indicated she would like to see enough setback to allow for the 20 feet of landscaping.

Ms. DePompei responded she understood, and explained the reason they gave a 10 foot setback was because the original site plan next door got approved for the mini storage and they also had a waiver of the 20 foot landscaping to reduce it to 10 feet, so they were trying to stay 10 feet from the northern property line, which was in line with what was previously approved.

Vice-Chairman Brown asked Staff for clarification that a new temporary permit could not be issued for two years.

Mr. Jordan explained when the applicant originally applied for the cell tower on the property to the north and it was denied, they met with Staff and even though the zoning ordinance talks about temporary buildings that can be allowed for one year with the possibility of two one year extensions of time, provided it was not more than three years, and so it was decided at that time that Staff would allow them to apply for the temporary communications on wheels under that provision, which means it was approved for one year and the applicant could come in twice and ask for an extension of time and maybe at that time, between now and three years, possibly they could come forward with an ordinance amendment or something could be done to consider that, which has not been done. The only other provision they have to operate under is a recently adopted ordinance amendment for multiple tower facilities and he did not feel comfortable putting a condition on the application that would put a sunset on the proposed cell tower and if the applicant decided to move the tower later, at their own will, that would be their decision, but what was being considered with the current application was a permanent facility on permanent property with the conditions. If there was a desire by the Commission for approval, there were conditions that were approved in 2006 for the original tower, that were discussed and could be read into the record.

Vice-Chairman Brown asked if there were code restrictions on the microwave dish.

Mr. Jordan responded normally everything had to be flush mounted; so, in this case, if there was a desire for approval, Condition No. 5 would be deleted and Condition No. 4 could be amended to read: "That antennae rays and microwave dishes below the palm tree fronds shall be flush mounted" and be combined into one condition.

Vice-Chairman Brown asked if the size of the microwave dish should be limited.

Mr. Jordan responded it would not recommend limiting the size of the dish.

Vice-Chairman Brown understood the landscaping was a problem, not due to the location of the tower, but because the applicant was unwilling to put it in. He would like to be able to grant something temporary, but could not grant a permanent facility, with only the applicant's word, that the facility would be moved, so he was not in support of the application as submitted. He suggested the applicant continue the application indefinitely and go with the temporary approval they already have in place and continue working on a permanent site.

Mr. Wright responded if he understood correctly, when Ms. DePompei first brought to the attention of AT & T the possibility of a one to three year temporary facility, it was AT & T RF Engineers who designed and are responsible for the system. It was their decision that it does not give them any comfort level that a permanent solution was there, that whether it was after year one, for whatever reason an extension was not granted, or if after year two an extension was not granted, or a permanent solution determined, they were not willing to put service out there that would be taken away because of something that beyond their control. He pointed out they build sites with five year leases, with four and five year extensions.

Vice-Chairman Brown understood, explaining the City was stuck in the same position. He could not grant something with the idea that he could not control what would happen in the next couple of years. He asked the applicant if she was willing to the continue the application or go for a vote.

Mr. Wright asked for an example of something that could be added to the Code, that when the primary use of the parcel was determined and developed, that the tower would have to move "X" number of feet.

Vice-Chairman Brown responded he would have to work with Staff and a continuance would be necessary.

Mr. Jordan asked if the concern was over the 200 foot setback for the cell towers, the applicant was not providing the 20 foot of landscaping adjacent to the northerly property line or the issue of a temporary use versus a permanent use.

It was felt the issue was over the 200 foot setback and the 20 feet of landscaping and also the applicant was talking about amending the Code and a continuance would allow the applicant time to meet with Staff to determine what route to take..

ACTION: CONTINUED TO OCTOBER 28, 2009

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 7 was heard next.

3. **AMP-01-09 (39599) COMMERCE SENIOR APARTMENTS (PUBLIC HEARING). AN APPLICATION SUBMITTED BY GREAT AMERICAN CAPITAL ON BEHALF OF COMMERCE 770 LLC, PROPERTY OWNER, FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN, LAND USE ELEMENT, TO CHANGE THE CURRENT DESIGNATION OF SINGLE-FAMILY MEDIUM (UP TO 13 DU/AC) TO MULTI-FAMILY (UP TO 25 DU/AC). THE PROPERTY IS LOCATED WEST OF COMMERCE STREET AND APPROXIMATELY 300 FEET NORTH OF CENTENNIAL PARKWAY. THE ASSESSOR'S PARCEL NUMBER IS 124-22-401-011.**

Item Nos. 3, 4 and 5 were heard together.

It was requested by the applicant to continue AMP-01-09 to November 24, 2009.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown indicated the Public Hearing would remain open.

ACTION: CONTINUED TO NOVEMBER 24, 2009

MOTION: Commissioner Perkins

SECOND: Commissioner Trivedi

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

4. **ZN-04-09 (39598) COMMERCE SENIOR APARTMENTS (PUBLIC HEARING). AN APPLICATION SUBMITTED BY GREAT AMERICAN CAPITAL ON BEHALF OF COMMERCE 770 LLC, PROPERTY OWNER, FOR RECLASSIFICATION OF PROPERTY FROM AN R-2, TWO-FAMILY RESIDENTIAL DISTRICT TO AN R-3, MULTI-FAMILY RESIDENTIAL DISTRICT. THE PROPERTY IS LOCATED WEST OF COMMERCE STREET AND APPROXIMATELY 300 FEET NORTH OF CENTENNIAL PARKWAY. THE ASSESSOR'S PARCEL NUMBER IS 124-22-401-011.**

Item Nos. 3, 4 and 5 were heard together.

It was requested by the applicant to continue ZN-04-09 to November 24, 2009.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown indicated the Public Hearing would remain open.

ACTION: CONTINUED TO NOVEMBER 24, 2009

MOTION: Commissioner Perkins

SECOND: Commissioner Trivedi

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

- 5 SPR-14-09 (39597) COMMERCE SENIOR APARTMENTS. AN APPLICATION SUBMITTED BY GREAT AMERICAN CAPITAL ON BEHALF OF COMMERCE 770 LLC, PROPERTY OWNER, FOR A SITE PLAN REVIEW IN AN R-2, TWO-FAMILY RESIDENTIAL DISTRICT (PROPOSED R-3, MULTI-FAMILY RESIDENTIAL DISTRICT) CONSISTING OF 150 MULTI-FAMILY UNITS FOR SENIORS. THE PROPERTY IS LOCATED WEST OF COMMERCE STREET AND APPROXIMATELY 300 FEET NORTH OF CENTENNIAL PARKWAY. THE ASSESSOR'S PARCEL NUMBER IS 124-22-401-011.

Item Nos. 3, 4 and 5 were heard together.

It was requested by the applicant to continue SPR-14-09 to November 24, 2009.

ACTION: CONTINUED TO NOVEMBER 24, 2009

MOTION: Commissioner Perkins

SECOND: Commissioner Trivedi

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 6 was heard next.

6. **UN-52-09 (39627) MCDONALD'S AT CHEYENNE & LOSEE (PUBLIC HEARING). AN APPLICATION SUBMITTED BY SPECTRUM SURVEYING & ENGINEERING ON BEHALF OF MORTONS INVESTMENT GROUP, LP, PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO ALLOW A CONVENIENCE FOOD RESTAURANT. THE PROPERTY IS LOCATED AT 1000 EAST CHEYENNE AVENUE. THE ASSESSOR'S PARCEL NUMBER IS 139-11-403-005.**

It was requested by the applicant to continue UN-52-09 to October 14, 2009.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown indicated the Public Hearing would remain open.

ACTION: CONTINUED TO OCTOBER 14, 2009

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 10 was heard next.

7. **UN-97-08 (39617) UNEV PIPELINE LLC (PUBLIC HEARING). AN APPLICATION SUBMITTED BY UNEV PIPELINE, LLC, PROPERTY OWNER, FOR AN AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE PERMIT IN AN M-2, GENERAL INDUSTRIAL DISTRICT TO REMOVE AND MODIFY CONDITIONS OF APPROVAL FOR THE STORAGE OF HAZARDOUS MATERIALS (APPROXIMATELY 315,000 BARRELS OF GASOLINE, DIESEL AND/OR ETHANOL). THE PROPERTY IS LOCATED APPROXIMATELY 3,800 FEET SOUTH OF GRAND VALLEY PARKWAY AND APPROXIMATELY 6,000 FEET WEST OF US HIGHWAY 93. THE ASSESSOR'S PARCEL NUMBER IS 103-15-000-005.**

The application was presented by Marc Jordan, Planning Manager who explained the applicant was requesting that eight conditions of the previously approved use permit be either amended or deleted. Condition No. 3 required 23 feet of landscaping be provided adjacent to Grand Valley Parkway and the applicant requested that it be amended. Staff was supportive of the amendment, because under the Apex Overlay District approved by the Commission it only required five feet of landscaping with 30% ground coverage and that the plants be native to the area and rather than deleting the condition, Staff was proposing a condition that would be consistent with that. Condition No. 4 required six feet of foundation landscaping next to the building and the Overlay District did not require landscaping next to the building, so Staff was supportive of deleting that condition. Condition No. 5 was regarding the design of the terminal building on the site, where the building exceeds 50 feet, they have to have breaks in the wall plane and because that was not required in the Apex Overlay District, Staff was supporting the deletion of that condition. Condition No. 8 required decorative wall be installed around the property and the Apex Overlay District dealt with this in two ways, for visible sites and less visible sites and this particular site was located on a less visible site and under the Overlay District, decorative block was not required, so the condition was amended to require walls or fences that would be consistent with the Apex Overlay District. Condition No. 14 dealt with all Nevada Power easements, appurtenances, and lines and poles must be shown and shall be located within the landscape area and shall be placed underground if they were relocated or adjusted. Public Works agreed to amend the condition to say that "all Nevada Power Company easements, appurtenances, lines and poles must be shown on the plans." Condition No. 15 stated prior to any installation of any permanent sub-grade street improvements, all required underground utilities, i.e. telephone, power, water, etc., located within public right-of-ways shall be extended a minimum of ten feet beyond the property line. The Utilities Department indicated they were not supporting the deletion or an amendment to the condition. Condition No. 22 was from the Fire Department and dealt with a fire foam suppression system and the requirements for that. The Fire Department indicated they had no issues with the deletion of the condition. Condition No. 28 dealt with security personnel on the property during off business hours or as otherwise approved by the Police Chief. There was a letter dated December 29, 2008 from the Police Department stating

they were no longer requesting a 24 hour staffing of the facility; therefore, Staff was recommending approval of those amendments, waiver and deletions as outlined in the Conditions in the Staff Report. Staff was recommending approval of UN-97-08 with the following conditions:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. That UN-97-08 is site-specific and nontransferable.
3. That the developer shall provide five (5) feet of landscaped area adjacent to the property line within the subject property along Grand Valley Parkway. The five (5) foot landscaped area shall be landscaped with drought tolerant or native plant materials to provide a minimum ground coverage of 30% at the time of maturity for the plant materials.
4. That any use of barbed wire atop the perimeter fence, as depicted on the site plan, shall be prohibited; unless the additional security measure is approved by the City Council under a separate Special Use Permit as set forth under Ordinance No. 2439.
5. That adequate traffic barriers shall be used along the internal access drive to prevent vehicles and trucks from leaving the paved access drive, serving the purpose of providing erosion and dust control mitigation measures.
6. That the design of any perimeter walls and fences for the site shall comply with the development standards outlined in Section G.5. of the proposed Industrial-Apex Overlay District (proposed Title 17.20.240.G.5) for less visible sites.
7. Approval of an update to the master traffic study or a traffic mitigation report, along with a queuing analysis, is required.
8. An approved drainage study is required prior to approval of the civil improvement plans.
9. Conformance with the Master Drainage Study.
10. All known geologic hazards shall be shown on the site plan and the civil improvement plans. Subsequent identification of additional hazards may substantially alter the original site plan.
11. The public street geometrics, width of over-pave and thickness of the pavement sections will be determined by the Department of Public Works.

12. All Nevada Power Company easements, appurtenances, lines and poles must be shown on the plans.
13. Prior to the installation of any subgrade street improvements, all required underground utilities (i.e. telephone, power, water, etc.) located within public rights-of-way, shall be extended a minimum of ten (10) feet beyond the project boundary.
14. Dedication and construction of the following streets and/or half streets is required per the *Master Plan of Streets and Highways* and/or *City of North Las Vegas Municipal Code* section 16.24.100, upon completion of the Master Transportation Study:
 - a. Grand Valley Parkway
15. The property owner is required to grant a roadway easement for commercial driveway(s).
16. The property owner is required to sign a restrictive covenant for utilities.
17. Fire access lanes shall be marked to prohibit parking in accordance with the Fire Code.
18. Fire access lanes shall be designed, located, and installed in accordance with the Fire Code.
19. A Hazardous Materials Technical Report, addressing hazardous material fire code compliance of this facility shall be prepared and sealed by a Nevada Licensed Fire Protection Engineer and submitted to the North Las Vegas Fire Department prior to the approval of the process piping and equipment plans.
20. A completely automatic foam suppression system, in accordance with the applicable National Fire Protection Association standards and the operational needs of the Fire Department as specified by the Fire Chief, shall be provided for all outdoor secondary containment areas in which tanks holding Class I, II, or III flammable and combustible liquids, as defined by the Fire Code, are normally loaded or off-loaded.
21. An additional 500 gallons of foam in 5 gallon containers shall be provided on site and maintained or replaced in accordance with the manufacture's recommendation and the National Fire Protection Association standards, or as otherwise approved by the Fire Chief.
22. As a condition of receiving water and sewer service, applicant shall enter into a development agreement with the City under the terms and provisions approved by the City Council.

23. Building permits are required for all proposed storage tanks.
24. Outriggers shall be affixed to the top of the existing fence.

Elizabeth Troser, Mass Media Corporate Communications, 2865 St. Rose Parkway, Henderson, NV 89074 appeared on behalf of the applicant and introduced Chris Fornelius, Senior Operations Manager, who oversees the terminal pipeline once constructed, as well as the actual terminals themselves and Rick Partain, Las Vegas Terminal Manager and Frank Eaton, President and CEO of Master Corporation, who does all of the terminal design and build and handed out information packets (copy in file) regarding their operation. Ms. Troser indicated she concurred with Staff recommendation.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown closed the Public Hearing.

Commissioner Joseph DePhillips asked the applicant if petroleum would be stored on the site and if the fire suppression system was being removed.

Ms. Troser responded there was and deferred the question to their engineer, who explained there would be a foam suppression system but it would not be automatic due to the inherent problems with operating an automatic system. The applicant worked with the Fire Department and were now installing a manual suppression system.

Commission DePhillips asked if the manual system would be continuously manned.

The engineer responded the system would be manned continuously.

Ms. Troser added City Officials and the Fire Chief were given a tour of one of the plants so they could see what was done for fire prevention and safety.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Trivedi

SECOND: Commissioner Perkins

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

OLD BUSINESS

8. **UN-47-09 (39487) GOWAN & MLK (PUBLIC HEARING). AN APPLICATION SUBMITTED BY AT&T MOBILITY ON BEHALF OF FOSTER DAY, INC., PROPERTY OWNER, FOR A SPECIAL USE PERMIT IN A C-1, NEIGHBORHOOD COMMERCIAL DISTRICT TO ALLOW AN 80 FOOT TELECOMMUNICATION TOWER AND FACILITY. THE PROPERTY IS LOCATED AT 2415 NORTH MARTIN L. KING BOULEVARD. THE ASSESSOR'S PARCEL NUMBER IS 139-16-410-329. (CONTINUED SEPTEMBER 9, 2009)**

The application was presented by Robert Eastman, Principal Planner who indicated Staff was recommending approval of UN-47-09 with the following conditions:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. That UN-47-09 is site-specific and nontransferable.
3. That the tower shall be a stealth monopalm design.
4. That the tower shall not exceed 80 feet in height measured from the top of fronds of the proposed stealth monopalm tower.
5. That perimeter landscaping along Carey Avenue shall be provided for per Title 17.24.200.J.
6. That the existing perimeter landscaping area along Martin Luther King Boulevard shall be landscaped with 24 inch box trees spaced at 20 feet on center and approved materials that will achieve a minimum ground coverage of sixty (60) percent (not including trees) within two years of the date of final inspection of the telecommunications tower.
7. That two (2) Date Palms, *Phoenix dactyliferas*, with minimum heights of twenty-four (24) feet measured from top of fronds shall be installed in the area between Carey Avenue and the tower location to aid in the camouflaging of the eighty (80) foot tower and create the appearance of a cluster of three (3) date palm trees from the adjacent public rights-of-way.
8. That the proposed 8 foot cmu enclosure shall be constructed with a block wall that is decorative and complies with Title 17.24.200.G.

9. That a cross access agreement shall be recorded by the property owner granting cross access with Assessor Parcel Numbers 139-16-410-330 and 139-16-410-331 within the southern portion of the subject property.

Jason Frayer, 323 Greenleaf Glen, Henderson, NV 89014 indicated he spoke with Bob Gronauer, who stated the property owner had resolved his issues and were no longer contesting the application.

Vice-Chairman Steve Brown opened the Public Hearing. There was no public participation.

Vice-Chairman Brown closed the Public Hearing.

Commissioner Laura Perkins thanked the applicant for taking the time to speak with the residents after the meeting to calm all of their fears.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS

MOTION: Commissioner Perkins

SECOND: Vice-Chairman Brown

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

9. **FDP-02-09 (39522) DIAMANTE EAST. AN APPLICATION SUBMITTED BY TANEY ENGINEERING ON BEHALF OF LO LAND ASSETS, LP, PROPERTY OWNER, FOR A FINAL DEVELOPMENT PLAN REVIEW IN A PUD, PLANNED UNIT DEVELOPMENT DISTRICT CONSISTING OF 111 SINGLE-FAMILY DWELLINGS. THE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF SCOTT ROBINSON BOULEVARD AND CHEYENNE AVENUE. THE ASSESSOR'S PARCEL NUMBERS ARE 139-09-417-001 THROUGH 139-09-417-111, 139-09-417-117 AND 139-09-417-122. (CONTINUED SEPTEMBER 9, 2009)**

The application was represented by Robert Eastman, Principal Planner who explained Staff had met with the applicant and reviewed some proposed model homes and the applicant was requesting some additional waivers from the Design Standards. Staff felt the models presented by the applicant were in conformance with the spirit and intent of the Design Standards; therefore, were recommending approval of FDP-02-09 with the following conditions, as listed in the revised memorandum dated September 23, 2009 as follows:

1. That this development shall comply with all approved conditions of ZN-131-04 and T-1157; and
2. The submitted elevations and landscape plans must comply with the requirements listed in the Single Family Design Guidelines with the following exceptions.
 - a. Garage doors must be recessed at least seven (7) inches from the garage wall plane.
 - b. At least sixty six (66) percent of the second story of two-story homes must be setback a minimum of three (3) feet or forward a minimum of two (2) over the garage.
3. Permits are required for all structures except as exempted by the CNLV Municipal Code, Building Administrative Code Section 15.72.140 B. & C.
4. No street, curb or sidewalk shall be considered as part of any individual lot that is constructed with, or intended for construction of, a single-family home.
5. No individual lot constructed with, or intended for construction of, a single-family home shall contain a pedestrian access, landscape, drainage or emergency access easement.

Ed Taney, Taney Engineering, 6030 South Jones, Las Vegas, NV appeared on behalf of the applicant indicating he concurred with Staff recommendation.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS LISTED
IN MEMORANDUM DATED SEPTEMBER 23, 2009

MOTION: Commissioner Trivedi

SECOND: Commissioner Cato

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Item No. 11 was heard next.

10. **T-1335 (39314) DECATUR DESERT PLAZA. AN APPLICATION SUBMITTED BY DECATUR DESERT PLAZA, LLC, PROPERTY OWNER, FOR APPROVAL OF A TENTATIVE MAP IN A C-1, NEIGHBORHOOD COMMERCIAL DISTRICT TO ALLOW A ONE (1) LOT COMMERCIAL SUBDIVISION. THE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF LONE MOUNTAIN ROAD AND DECATUR BOULEVARD. THE ASSESSOR'S PARCEL NUMBER IS 124-31-401-003. (CONTINUED AUGUST 12 AND SEPTEMBER 9, 2009)**

It was requested by the applicant to continue T-1335 to October 14, 2009.

ACTION: CONTINUED TO OCTOBER 14, 2009

MOTION: Commissioner Perkins

SECOND: Commissioner Trivedi

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

Minutes were heard next.

- 11. SPR-26-08 (39418) DECATUR DESERT PLAZA. AN APPLICATION SUBMITTED BY DECATUR DESERT PLAZA, LLC, PROPERTY OWNER, FOR AN AMENDMENT TO A PREVIOUSLY APPROVED SITE PLAN REVIEW IN A C-1, NEIGHBORHOOD COMMERCIAL DISTRICT TO REMOVE AND MODIFY EXISTING CONDITIONS OF APPROVAL. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF LONE MOUNTAIN ROAD AND DECATUR BOULEVARD. THE ASSESSOR'S PARCEL NUMBER IS 124-31-401-003. (CONTINUED AUGUST 26 AND SEPTEMBER 9, 2009)**

The application was presented by Robert Eastman, Principal Planner who explained Staff was recommending approval of SPR-26-08 based on the revised site plan submitted in August 2009 with an amendment to Condition No. 2 and the applicant had a request to discuss Condition No. 29. The original conditions listed in the Staff Report are as follows:

1. Unless expressly authorized through a variance, waiver or another method, development shall comply with all applicable codes and ordinances.
2. That the developer shall provide a mix of ground covers and shrubs, that will achieve a minimum ground coverage of 60% (not including trees) within two (2) years of the time of issuance of a Certificate of Occupancy by the City within the proposed ten (10) landscaped buffer area along the site's eastern property line along with the proposed 36" box trees spaced at intervals of 20 feet as depicted on the landscaping plan.
3. That the developer shall adjust the building footprints for Building "C" and Building "D" to meet the foundation landscaping requirement outlined in Title 17.24.200.D.7 and the areas shall include planter boxes consistent with the site's design as proposed for pad sites "B" and "E".
4. That the developer shall provide additional landscaping areas for the screening of the two (2) refuse collection areas located near both convenience food restaurants.
5. That all ground mounted electrical/mechanical equipment shall be appropriately screened via the use of landscaping per Title 17.24.200.G.5.
6. That the architectural design and character of the proposed building elevations submitted with this site plan review shall be modified to ensure adherence to the following conditions:
 - a. The architectural character and design of Buildings "A", "F", and "G" shall comply with Title 17.24.200.F.3.a. and meet the requirements for a Coherent Design by incorporating the use of decorative stone veneering on all sides of Buildings "A", "F", and "G". Buildings "B", "C", "D", and "E" comply with Title 17.24.200.F.3.a.

- b. The north elevation/facade of Building "A" and the south elevation/facade of Building "F", both facing public streets, shall comply with Title 17.24.200.F.4.a. by providing features such as windows, false windows, recessed false windows, awnings, and/or arcades for at least 60% of the length of the elevations/facades which abut Lone Mountain Road and La Madre Way. Condition 6.b. does not apply to Buildings "B", "C", "D", "E", and "G".
 - c. The architectural character and design of the service doors/emergency exits along the north elevation/facade of Building "A" and the south elevation/facade of Building "F", both facing public streets, shall make use of decorative treatments and be recessed or appear recessed via the use of pop-outs and/or decorative treatment on the doors' openings. Condition 6.c. does not apply to Buildings "B", "C", "D", "E", and "G".
7. That any areas with sufficient planter widths, as determined by staff, within any required street median(s) located within Decatur Boulevard shall be landscaped per the standards outlined in 17.24.200.J.4.
8. That the parking requirements per Title 17.24.140.E.2. shall be met within each phase of the proposed development to ensure that adequate parking is provided throughout the phasing of development.
9. That the approval of SPR-26-08, as amended, will expire on October 22, 2010.
10. All known geologic hazards shall be shown on the site plan and the civil improvement plans. Subsequent identification of additional hazards may substantially alter the original site plan.
11. Approval of a drainage study is required prior to submittal of the civil improvement plans.
12. Clark County Regional Flood Control District (CCRFCD) concurrence with the results of the drainage study is required prior to approval of the civil improvement plans.
13. City of Las Vegas concurrence with the results of the drainage study is required prior to approval of the civil improvement plans.
14. No left turns shall be allowed out of the southerly driveway onto Decatur Boulevard.
15. Approval of a traffic study is required prior to submittal of the civil improvement plans.

16. A minimum of five stacking spaces shall be provided behind the atm at the bank and the order boards of the fast-food restaurants.
17. If not already existing, the civil improvement plans for the project shall include schedule 40 PCV fiber optic conduit along:
 - a. Decatur Boulevard
 - b. Lone Mountain Road
18. Right-of-way dedication of a flared intersection, including a right turn lane, is required at Lone Mountain Road and Decatur Boulevard per the *Uniform Standard Drawings for Public Works' Construction Off-Site Improvements* Drawing Number 201.1 and 245.1. Based upon the findings of the traffic study, construction of the improvements may be required.
19. Right-of-Way dedication and construction of a CAT bus turn-out is required on Decatur Boulevard near Lone Mountain Road. It is suggested that the applicant provide the bus stop placement within the exclusive right turn lane for the property per *Uniform Standard Drawings for Public Works Construction Off-Site Improvements Drawing Number 234.3*.
20. The developer shall construct a raised median along the Decatur Boulevard frontage with openings allowed at the main entrance (Villa Madre Way) and at the two existing driveways on the west side of Decatur Boulevard. The other two driveways on Decatur Boulevard (north and south of Villa Madre Way) may be right-in and right-out only.
21. The residential subdivision north of this proposed commercial development does have homes fronting La Madre Way. Consequently, no driveways will be permitted along La Madre Way as direct access to La Madre Way is prohibited.
22. All development shown on this site plan shall be shown on the civil improvement plans submitted to the City for review. The required surety will be released upon completion of all required off-site improvements shown within the Bond & Fee Estimate.
23. The size and number of driveways and their locations are subject to review and approval by the City of North Las Vegas Traffic Engineer and must meet the standards set forth in North Las Vegas Municipal Code section 17.24.130. Conformance may require modifications to the site.
24. Commercial driveways are to be constructed in accordance with Clark County Area Uniform Standard Drawing numbers 222A and 225, with minimum widths of 32 feet as measured from lip of gutter to lip of gutter.

25. The property owner is required to grant a roadway easement for commercial driveway(s).
26. The developer shall provide a copy of the Covenants, Conditions and Restrictions (CC & R's) to the Department of Public Works upon submittal of the civil improvement plans for initial review. The CC & R's shall address cross access/reciprocal parking for the development.
27. The property owner is required to grant a pedestrian access easement for sidewalk located within a common element, or on private property, when that sidewalk is providing public access adjacent to the right-of-way.
28. A revocable encroachment permit for landscaping within the public right of way is required.
29. All Nevada Energy easements, appurtenances, lines and poles must be shown and shall be located entirely within the perimeter landscape area of this development. Distribution lines, existing or proposed, shall be placed underground.
30. The associated Tentative Map (T-1335) shall comply with the conditions of approval for this application.
31. Fire lanes shall be marked to restrict parking per the fire code.
32. Fire lanes shall be designed per the fire code.
33. Fire lanes shall be located per the fire code.
34. A minimum of two points of access, one from Lone Mountain Road and one from Decatur Boulevard shall be provided to the satisfaction of the Fire Department.
35. The trash enclosure gates shall be hung approximately 8" from the ground.

Jennifer Lazovich, Kaempfer Crowell Renshaw Gronauer & Fiorentino, 3800 Howard Hughes Parkway, 7th Floor; Las Vegas, NV 89169 appeared on behalf of the applicant explaining one of the conditions originally approved on the site plan required the existing distribution lines be placed underground. Currently, from Cheyenne Avenue to Washburn Road, the power lines were not underground. The development along the east side of Decatur, included both housing and fairly recent commercial projects, so they were requesting that Condition No. 29 be amended to allow them to leave the power lines aboveground, because the precedent was already set for them to be aboveground. To the north of Washburn, where there was newer development, there were also aboveground transmission lines, but that was north of the proposed site. She asked that the last sentence in Condition No. 29 be amended to read: "Existing distribution lines are not

required to be placed underground.” If the Commission was receptive to that idea, they have asked for an additional condition to be added, Condition No. 2.A, which would require the developer to add additional shrubbery and groundcover along Decatur Boulevard, which would be in addition to the required trees required by Code.

Vice-Chairman Steve Brown asked Staff for comment.

Jennifer Doody of Public Works explained, regarding the power lines being placed underground, there was a segment of that condition which was left out and it was a standard condition on every development that if, during the course of the site development, you have to move one of the poles, the power lines must be placed underground, which was by the direction of City Council, to try to remove the blight of the distribution lines along thoroughfares through the City. Ms. Doody stated she would be agreeable to amend the condition so the last sent read: “That distribution lines existing or proposed, if impacted by the development of the site, shall be placed underground.”

Ms. Lazovich did not agree with the suggested amendment because one of the other conditions required a bus turnout on the site and along Decatur from Cheyenne all the way to Washburn, there were bus stops and if she kept the condition for the bus turnout, it would require moving a power pole, which was why they worked with NV Energy to see where the policy came from and they indicated it was a City policy. She wanted to be able to install a bus turnout and move a power pole, but not be required to place the lines underground. The alternative could be to waive the requirement for a bus turnout.

Vice-Chairman Steve Brown agreed with the policy for the power lines, but moving one pole to get a bus turnout was better for the City than giving up the bus turnout, so a power pole did not have to be moved. He was in support of the amendments requested by the applicant.

Commissioner Dilip Trivedi agreed with Vice-Chairman Brown and did not feel it made sense to have one property owner be forced to put power lines underground when all others were aboveground.

Mr. Eastman stated Condition No. 2.A would be added to read: “In the landscaped areas along Decatur Boulevard, in addition to the required trees, the developer shall provide a mix of ground cover and shrubs that will achieve a ground coverage of 80% within two years of the time of issuance of a certificate of occupancy.” Condition No. 29 would be amended to read: “That all Nevada Energy easements, appurtenances, lines and poles must be shown and shall be located entirely within the perimeter landscape area of this development. Existing distribution lines were not required to be placed underground.” Or if the Commission desired, something could be worded to allow them to keep the poles if impacted by a bus turnout, if they wanted to be more specific.

Ms. Lazovich thought it would be covered by saying existing distribution lines are not required to be placed underground, but you could add “existing distribution lines are allowed to be placed aboveground, even if a pole is relocated to allow a bus turnout,” to the end of the last sentence.

ACTION: APPROVED SUBJECT TO STAFF RECOMMENDED CONDITIONS WITH CONDITION NO. 2.A ADDED AND CONDITION NO. 29 AMENDED TO READ:

2.A. IN THE LANDSCAPED AREAS ALONG DECATUR BOULEVARD, IN ADDITION TO THE REQUIRED TREES, THE DEVELOPER SHALL PROVIDE A MIX OF GROUND COVER AND SHRUBS THAT WILL ACHIEVE A GROUND COVERAGE OF 80% WITHIN TWO YEARS OF THE TIME OF ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

29. ALL NEVADA ENERGY EASEMENTS, APPURTENANCES, LINES AND POLES MUST BE SHOWN AND SHALL BE LOCATED ENTIRELY WITHIN THE PERIMETER LANDSCAPE AREA OF THIS DEVELOPMENT. EXISTING DISTRIBUTION LINES ARE ALLOWED TO BE PLACED ABOVEGROUND, EVEN IF A POLE IS RELOCATED TO ALLOW A BUS TURNOUT.

MOTION: Commissioner Trivedi

SECOND: Commissioner Cato

AYES: Vice-Chairman Brown, Commissioners Cato, Trivedi, Perkins, and DePhillips

NAYS: None

ABSTAIN: None

PUBLIC FORUM

There was no public participation.

DIRECTOR'S BUSINESS

There was no report given.

CHAIRMAN'S BUSINESS

There was no report given.

ADJOURNMENT

The meeting adjourned at 7:09 p.m.

APPROVED: October 14, 2009

/s/ Dean Leavitt
Dean Leavitt, Chairman

/s/ Jo Ann Lawrence
Jo Ann Lawrence, Recording Secretary