

## GENERAL INFORMATION

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| Applicant:                       | MOA Land Holdings, LLC                                                                                                                                                                                                                                                                                                                                         |
| Location:                        | 7900, 8000, 8100 and 8201 24 <sup>th</sup> Avenue South<br>2101, 2111 and 2121 Lindau Lane<br>8200 28 <sup>th</sup> Avenue South                                                                                                                                                                                                                               |
| Request:                         | Variance to extend the time period allowed for temporary communication towers supporting special events                                                                                                                                                                                                                                                        |
| Existing Land Use and Zoning:    | Mall of America and surface parking areas; zoned CX-2 (PD)(AR-17) Mixed Use (Planned Development)(Airport Runway) and CX-2(PD) Mixed Use (Planned Development)                                                                                                                                                                                                 |
| Surrounding Land Use and Zoning: | North – Hotel, restaurant, office, vacant commercial land; zoned LX(PD)(AR-17), LX(AR-17) and C-4<br>South – Vacant commercial land; zoned CS-1(AR-17)(BP-2)<br>East – Hotel, office, manufacturing, warehouse and vacant land; zoned LX(AR-17), LX(PD)(AR-17), CO-1(PD)(AR-17) and C-4(AR-17)<br>West – Retail, State Highway 77 right-of-way; zoned CX-2(PD) |
| Comprehensive Plan Designation:  | High Intensity Mixed Use (HIMX)                                                                                                                                                                                                                                                                                                                                |

## CHRONOLOGY

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| Planning Commission Action: | 10/26/2017 – Recommended approval of the variance application |
| City Council Agenda:        | 11/06/2017 – Development Business Agenda                      |

## PROPOSAL

To accommodate special communication needs during Super Bowl LII activities, MOA Land Holdings, LLC is requesting a variance to extend the duration of time that temporary communication towers supporting special events are permitted. Section 19.63.05(s)(3) of the City Code limits the time period for temporary towers related to special events to seven days. Temporary towers can be approved by the Planning Manager administratively through the submission of an application for Minor Revision to Final Site and Building Plans. The Mall of America is requesting that the time limit for temporary towers be extended from November 15,

2017 to February 10, 2018 (88 days) to accommodate the 2018 National Football League (NFL) Super Bowl LII, held on February 4, 2018.

Leading up to and during the Super Bowl, the Mall of America will be hosting numerous events, necessitating extensive broadcast activities. In addition, telecommunication companies have expressed a desire to test their systems during peak demand periods around the holiday shopping season to prepare for the Super Bowl event, where increased demand is also anticipated. Additional wireless communication antennas will be needed to serve the increased demand in the area during the event. While the proposed time period for temporary towers has initially been requested by AT&T, the Mall of American is in contact with other cellular providers who anticipate adding equipment to accommodate increased demand. Given the complexities of the events and activities surrounding the Super Bowl, the Mall of American is unable to anticipate the wide range of requests for temporary telecommunication towers needed to serve the event. However, the applicant is confident that the time period requested, November 15, 2017 to February 10, 2018, will adequately accommodate all telecommunication needs during the Super Bowl.

## **ANALYSIS**

The Mall of America is proposing to extend the time allowed for temporary towers to serve events associated with Super Bowl LII from seven days to 88 days (November 15, 2017 to February 10, 2018). Temporary towers utilized for telecommunications and broadcasting are typically attached to vehicles or trailers that are strategically located to accommodate temporary increases in demand. Tower heights are typically in the range of 25 to 35 feet in height. In addition, generators are typically utilized to power the temporary tower. The application packet submitted by the Mall of America includes two examples of temporary telecommunication towers.

Given the quantity of events planned and traffic increase anticipated at the Mall of America during the Super Bowl, it is clear that demand on telecommunications equipment will be significantly increased. In addition, the Mall of America is not certain how many temporary towers will be needed and for what durations to serve the overall special event. As a result, the variance request is intended to establish an adequate window of time for all potential requests for temporary telecommunication towers needed to serve the event. Staff is supportive of this approach given the complexities of the Super Bowl event.

Should the variance request for an extended time period for temporary towers at these locations be granted, each individual tower must be reviewed and approved by the Planning Manager per the requirements of the City Code. As a result, each individual tower will be reviewed for compliance with City Code by the various departments that review all development applications, including Engineering, Fire Prevention, Licensing and Building and Inspections. The review of each individual tower is important given potential conflicts related to parking, access, Airport Safety Height Limits, utilities, and other characteristics of such equipment. Given the ability to

review each individual tower through a development application, staff is confident that the approval of the requested variance will not inhibit the City's ability to enforce the City Code and other policies pertinent to telecommunications towers. Staff is supportive of the requested variance to extend the time limit allowed for temporary towers associated with the Super Bowl special event. The recommendation for approval is based on the requested timeline of 88 days (November 15, 2017 to February 10, 2018) only. No further extensions would be permitted beyond the requested timeline.

**Planning Commission Review**

The Planning Commission held a public hearing on October 26, 2017. No one from the public spoke. The Planning Commission asked questions and engaged in discussion pertaining to the safety and security of the subject equipment. In addition, the number and location of temporary towers at the Mall of America site was also discussed. Further details of the discussion can be found in the attached draft Planning Commission minutes. The Planning Commission unanimously recommended approval of the requested variance.

**FINDINGS**

**Required Variance Findings – Section 2.85.04(g)(1)(A-F)**

| <b>Required Finding</b>                                                                  | <b>Finding Outcome/Discussion</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (A) ... the variance is in harmony with the general purposes and intent of the ordinance | <b>Finding Made</b> – The ordinance intent is to limit temporary towers associated with special events to the duration of time needed to serve the event (7 days or less). The Super Bowl is a unique event that greatly exceeds the demand and duration of a typical special event. The proposed time period requested by the applicant is necessary to adequately serve the special event. The variance is in harmony with the ordinance general purposes and intent. |
| (B) ... the variance is consistent with the Comprehensive Plan.                          | <b>Finding Made</b> – The Comprehensive Plan encourages towers to be designed in a manner that minimizes adverse impacts on the surrounding areas. The requested time extension for temporary towers only pertains to the Super Bowl special event on the proposed subject parcels. The subject parcels are not located in close proximity to residential uses. The variance is consistent of the guidance of the Comprehensive Plan.                                   |

| Required Finding                                                                                                                                                                                         | Finding Outcome/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| (C) ... the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties. | <b>Finding Made</b> – The unique nature and magnitude of the Super Bowl event presents telecommunications challenges far beyond a typical special event. The increased demand on telecommunication antennas in the subject area will significantly increase for a period longer than seven days leading up to the Super Bowl event. In addition, the quantity of temporary towers needed to serve the event is unknown by the property owner at this time based on the complexities of telecommunications and broadcasting associated with the event. The extension of the time period for special event temporary towers is necessary to accommodate the increased demand and duration of the subject event. The applicant has established that there are practical difficulties in complying with the zoning ordinance. |
| (D) ... The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.                                                                                    | <b>Finding Made</b> – Temporary towers are necessary to serve the increased volume of telecommunications activity associated with a large event. Given the magnitude and duration of the subject event, the temporary towers must be erected for a period longer than seven days. The use of temporary towers for a period longer than seven days for an event with the characteristics of the Super Bowl is a reasonable use not permitted by the zoning ordinance.                                                                                                                                                                                                                                                                                                                                                      |
| (E) ... The plight of the landowner is due to circumstances unique to the property not created by the landowner.                                                                                         | <b>Finding Made</b> – The characteristics of the 2018 Super Bowl event are unique with respect to the increased demand and necessary duration of temporary telecommunication towers to adequately serve the special event. The telecommunications towers needed to serve the event are not requested or determined by the property owner, the Mall of America. The plight of the landowner is due to the unique circumstances of the special event not created by the landowner.                                                                                                                                                                                                                                                                                                                                          |
| (F) ... The variance if granted will not alter the essential character of the locality.                                                                                                                  | <b>Finding Made</b> – The Mall of America will be utilized as a destination for special events leading up to and during Super Bowl LII. In addition, the existing character and condition of the locality is that of a high density shopping area with high levels of traffic and activity. A significant amount of existing telecommunications equipment is located at or within proximity of the subject properties. Additional temporary telecommunications and broadcasting towers to serve a special event will not alter the essential character of the locality.                                                                                                                                                                                                                                                   |

## **RECOMMENDATION**

The Planning Commission and staff recommend approval of the variance request through the following motion:

In Case PL2017-204, having been able to make the required findings, I move to adopt a resolution approving a variance to extend the permitted time period for temporary towers related to special events located at 7900, 8000, 8100 and 8201 24<sup>th</sup> Avenue South, 2101, 2111 and 2121 Lindau Lane, and 8200 28<sup>th</sup> Avenue South from November 15, 2017 to February 10, 2018, subject to the condition attached to the staff report.

## **RECOMMENDED CONDITIONS OF APPROVAL**

**Case** PL201700204

**Project Description:** Variance to extend the time period allowed for temporary towers related to special events.

**Address:** 7900, 8000, 8100 and 8201 24<sup>th</sup> Avenue South  
2101, 2111 and 2121 Lindau Lane  
8200 28<sup>th</sup> Avenue South

The following condition of approval is arranged according to when it must be satisfied. In addition to the condition of approval, the use and improvements must also comply with all applicable local, state, and federal codes.

1. Ongoing      The variance to extend the permitted time period for temporary towers associated with special events beyond 7 days is limited to between November 15, 2017 and February 10, 2018.