

MEMORANDUM

RANDALL H. WALKER
Director

DEPARTMENT OF AVIATION

ROSEMARY A. VASSILIADIS
Deputy Director

TO: AIRPORT HAZARD AREAS BOARD OF ADJUSTMENT

FROM: RANDALL H. WALKER, DIRECTOR OF AVIATION 

SUBJECT: Skyvue (Observation Wheel)
APPLICATION FOR VARIANCE

DATE: December 9, 2011

I. BACKGROUND

Section 20.13.040 of the Airport Hazard Regulations (the "Regulations") adopted under Chapter 20.13 of the Clark County Code limits the height of a structure within the airport hazard areas established by the Regulations to the height shown on the Airspace Zoning Maps for the McCarran International Airport and the North Las Vegas Airport. Section 20.13.080 allows the Airport Hazard Areas Board of Adjustment to grant variances from the Regulations in certain circumstances identified in Section 20.13.080 of the Regulations.

II. PROJECT; VARIANCE REQUESTED

Skyvue (the "Applicant", and developer), are seeking the necessary approval to construct an Observation Wheel up to 500 feet above ground level (AGL), 2636 feet above mean sea level (AMSL) (the "Project") on a parcel located at Las Vegas Boulevard and Mandalay Bay Road (APN# 162-28-301-001, -002, -010, -032, -033, -034, -036 and -037) (the "Property"). When built as proposed, the structure would penetrate the standards in the FAR Part 77 Horizontal Surface, Subpart C, 77.23 (a) for McCarran International Airport as shown on the McCarran Airspace Zoning Map. Under the Regulations, a structure within this general area is limited to a maximum height of 2636 feet AMSL. The site elevation is 2136 feet AMSL, which means without a variance, development on this site over 395 feet AGL would be precluded.

As part of the approval process, the Applicant has applied to this Board for a variance from the height limitations established by Section 20.13.040.

The variance requested would allow the structure on the subject Property to be built to a maximum height of 2636 feet AMSL, thereby exceeding the height limitations by a maximum of 105 feet.

I. STANDARDS FOR GRANTING OF VARIANCE

Under Section 20.13.080 of the Regulations, the Board may grant a variance from the requirements of Chapter 20.13, provided that the following conditions are met:

- 1) That literal application or enforcement of the Regulations would result in practical difficulty or unnecessary hardship which would be extreme and inequitable, and
- 2) That the relief granted would not be contrary to the public interest, but would do substantial justice to the spirit of the Regulations, and would not interfere with the operations of McCarran International Airport or North Las Vegas Airport.

Staff believes the application does meet these requirements for the following reasons:

1. The structure, as proposed, would not substantially interfere with aircraft operations at McCarran International Airport.
2. The structure, as proposed, has been determined by the Federal Aviation Administration (FAA) to not be a hazard to air navigation.

In light of this information, Staff is of the opinion that, in this case, literal enforcement of the regulations would be extreme and inequitable, and the granting of the variance would not be contrary to the public interest and would do justice to the spirit of the Regulations.

II. RECOMMENDATION

Staff recommends that the Airport Hazard Areas Board of Adjustment approve the variance application.

Staff further recommends:

1. That the Applicant files a separate Federal Aviation Administration, FAA Form 7460-1, "Notice of Proposed Construction or Alteration" for any temporary construction equipment, which may be erected to a height greater than the approved height AMSL.
2. That the Applicant mark and/or light the structure in accordance with FAA Advisory Circular 70/7460-1K, Change 2, Obstruction Marking and Lighting Chapters 4, 5 (Red), & 12.

Proposed forms of resolution both denying and granting the variance are attached.

RHW: sk

cc: Rosemary A. Vassiliadis
Teresa Motley

E. Lee Thomson
Charles Hall

Dave Brown

AIRPORT HAZARD AREAS
BOARD OF ADJUSTMENT
OF CLARK COUNTY, NEVADA

RESOLUTION FOR GRANTING VARIANCE

WHEREAS, Section 20.13.010 of the Clark County Code (the "Code") gives the Board the authority to hear and decide variances from the literal application of the Airport Hazard Regulations (the "Regulations") established in Chapter 20.13 of the Code;

WHEREAS, Skyvue (Observation Wheel) (the "Applicant", and developer), are seeking necessary approval to construct a building up to 500 feet above ground level (AGL) 2636 feet above mean sea level (AMSL) (the "Project") on a parcel located at Las Vegas Boulevard and Mandalay Bay Road (APN# 162-28-301-001, -002, -010, -032, -033, -034, -036 and -037) (the "Property");

WHEREAS, the variance would allow the structure on the subject Property to be built to a maximum height of 2636 feet AMSL, thereby exceeding the height limitations by a maximum of 105 feet.

WHEREAS, in connection with the Project, the Applicant has applied to this Board for a variance from the height limitations established in Section 20.13.040 of Chapter 20.13 in order to exceed such limitations on the Property;

and;

WHEREAS, the Board desires to **grant** such variance.

NOW THEREFORE BE IT RESOLVED

1. That a variance is granted for the height limitation established by Section 20.13.040 of the Code and the Airspace Zoning Maps referenced therein, to allow the Applicant to construct on the Property a structure up to 500 feet AGL, 2636 feet AMSL, that would exceed such height limitations by up to 105 feet.
2. That the grant of such variance is subject to the following conditions:
 - A. That the Applicant agrees to abide by a prohibition on outdoor laser lights or other outdoor lighting which may be found to cause vision problems for pilots operating within the Las Vegas Valley.
 - B. That the Applicant file a separate FAA Form 7460-1 for any temporary construction equipment, which may be erected to a height greater than the approved height of 2638 feet AMSL.
 - C. That the Applicant mark and/or light the structure in accordance with FAA Advisory Circular 70/7460-1K, Obstruction Marking and Lighting Chapters 4, 5 (Red), & 12.
 - D. That the Applicant refer to the "Determination of No Hazard to Air Navigation" to ensure compliance with any other conditions the FAA has set forth.

3. That in connection with the grant of the Variance, the Board makes the following findings pursuant to Section 20.13.080 of the Regulations:
 - A. That the application or enforcement of the regulations would result in practical difficulty or unnecessary hardship which would be extreme and inequitable, and that the relief granted would not be contrary to the public interest, but would do substantial justice to the spirit of the Regulations.
 - B. The relief granted by the variance would be in the spirit of the regulations because the Applicant has received a Federal Aviation Administration (FAA,) determination of no hazard to air navigation in association with the Project.
 - C. No adverse impacts on navigational aids will be experienced as a result of the development.

PASSED ON THE 9th day of December, 2011

Vote:

Ayes: Ammerman, Lynn, Thompson, Wardlaw

Nays: None

Abstaining: None

Absent: Tarr