

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 336, a Special Use Permit with a Variance for a Wireless Telecommunication Facility located in Seattle City Light R-O-W near 153rd and Aurora Ave N. File No. 201222
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Tim Stewart, Planning Director Paul Cohen, Planner III

PROBLEM/ISSUE STATEMENT:

The issue before Council is a combined application for a Special Use Permit (SUP) and Variance needed for a Wireless Telecommunications Facility (WTF) located in the Seattle City Light R-O-W near 153rd and Aurora Ave N. (Attachment A: Planning Commission Staff Report July 17, 2003). The applicant has requested that the WTF be permitted to replace an existing 40' utility pole, with an 80' pole with fenced ground equipment.

A Special Use Permit is a Quasi-Judicial decision of the Council. The Variance is not normally a quasi-judicial decision, but is elevated with the SUP because it is a consolidated application. An open record public hearing was conducted before the Planning Commission on July 17, 2003. Council's review must be based upon the written record and no new testimony may be heard. The Planning Commission issued a recommendation on July 17, 2003 and further discussed the proposal on August 7, 2003. The Development Code states that a decision on this type of application should be made within a 120-day target. In order to meet this target, staff has scheduled this item with Council at this time.

ALTERNATIVES ANALYZED: The following options are within Council's discretion and have been analyzed by staff:

- The Council could adopt the SUP and Variance as recommended by the Planning Commission to include a condition "that the applicant make a good faith effort to move the mechanical building to the north" by adopting Ordinance No.336 (Attachment E).
- The Council could adopt the SUP and Variance as originally proposed by the applicant and recommended by staff (Attachment F).
- The Council could deny the SUP and Variance request.

FINANCIAL IMPACTS:

There are no direct financial impacts to the City.

RECOMMENDATION

There are two alternative recommendations, one from the Planning Commission, the other from staff:

1. Planning Commission recommends that Council adopt Ordinance No. 336, (Attachment E) with the condition that the applicant make a good faith effort to move the mechanical building to the north.
2. The staff recommends that the Council adopt Ordinance No. 336-A (Attachment F) as proposed by the applicant, without the condition to move the mechanical building.

Approved By:

City Manager 

City Attorney 

INTRODUCTION

The SUP and Variance application before Council is a request to allow an uncamouflaged WTF and ground equipment located in the Seattle City Light R-O-W near 153rd and Aurora Ave North.

A public hearing before the Planning Commission was opened and closed on July 17, 2003. The Planning Commission Findings and Recommendation are included in Attachment E, Exhibit 1. Alternative Findings and Recommendation from the staff are included in Attachment F, Exhibit 1. The only difference between the two alternatives is the condition that the applicant make a good faith effort to move the mechanical building to the north.

BACKGROUND

Wireless telecommunications facilities are regulated under Shoreline Municipal Code (SMC) 20.40 600. New, uncamouflaged poles are permitted through a Special Use Permit. In addition, this proposal cannot meet the setback standards of 20.40.600(2) therefore a zoning variance is required. The SMC allows for a consolidated permit process. This applicant is a consolidated Special Use and Variance Permit.

The Seattle City Light parcel is designated as unclassified right-of-way. The residential area (Westminster Triangle) to the west is zoned R-4. The commercial area to the east is zoned RB.

PROCEDURAL HISTORY

The application process for this project began when a pre-application meeting was held with the applicant and City staff. The applicant then held the requisite neighborhood meeting on April 9, 2003. The formal application was submitted to the City on April 22, 2003, and it was determined complete on May 16, 2003.

On July 17, 2003, the Planning Commission reviewed the staff report (Attachment A), conducted a Public Hearing and discussed the merits of the proposal.

The Planning Commission added a condition "that the applicant make a good faith effort to move the mechanical building to the north" and recommended approval of both the Special Use Permit and the Variance. (Attachment B: Draft Planning Commission Minutes, July 17, 2003). On August 7, 2003 staff submitted a supplemental staff report to the Planning Commission for a Possible Reconsideration (Attachment C). Following discussion, reconsideration failed for lack of a quorum of those eligible to vote. The recommendation to the Council is therefore based upon the action of the Planning Commission on July 17th.

PUBLIC COMMENT

No comment letters were received in response to the standard notice procedures for this application (the written comment deadline was July 3, 2003). At the public hearing, Soon Kim provided her comments in Korean, both verbally and in writing (Attachment B, Exhibit 1). Cindy Ryu (Attachment B, pp. 17-18) then translated her comments into the record. Cindy Ryu also provided her own comments (Attachment B, p.18 and Exhibit 2). Both opposed the project.

ISSUES

In response to the comments of Ms Kim and Ms Ryu, the Planning Commission discussion focused primarily upon the location of the ground structure. The Planning Commission concluded that the movement of the ground structure to the north would be responsive to the public comments. The Commission included the condition that the applicant make a good faith effort to move the mechanical building to the north if permission can be obtained from Seattle City Light in their recommendation of approval.

POSSIBLE RECONSIDERATION

Following the Planning Commission meeting, staff consulted with the City Attorney and issued a supplemental Staff Report (Attachment C: August 7, 2003 Staff Report). This report included the translation of Ms Kim's letter (Attachment C, p 11) and a recommendation that the Planning Commission reconsider the condition to move the building to the north because "the condition would move the ground equipment location to the north parallel to the property line and have the same potential effects on the next property without proper notice of the change".

The Planning Commission discussed the staff report, but failed to take formal action due to a lack of quorum of members eligible to vote (Attachment D: Draft Planning Commission Minutes of August 7, 2003).

ALTERNATIVE ANALYSIS

Alternative #1 The Council could adopt the SUP and Variance as recommended by the Planning Commission to include a condition "that the applicant make a good faith effort to move the mechanical building to the north" by adopting Ordinance No. 336 (Attachment E). This alternative could result in the mechanical building being located on the north side of the utility pole, behind the "U-Grill" parking lot. The new location of this building was not recommended until after the close of the public hearing. It is possible that the new location of the building to the north could result in opposition that was not articulated at the public hearing because this location was not part of the notice.

Alternative #2 The Council could adopt the SUP and Variance as originally proposed by the applicant and as recommended by the staff by adopting Ordinance No. 336-A

(Attachment F). This alternative would result in the mechanical building being located behind the commercial building to the south of "U-Grill".

Alternative #3 The Council could deny the SUP and Variance if it finds that the proposal does not meet any one of the criteria of the SUP and the Variance. The Council could remand the report back to staff for appropriate findings and recommendation.

RECOMMENDATION

There are two alternative recommendations, one from the Planning Commission, the other from staff:

1. Planning Commission recommends that Council adopt Ordinance No. 336, (Attachment E) with the condition that the applicant make a good faith effort to move the mechanical building to the north.
2. The staff recommends that the Council adopt Ordinance No. 336-A, (Attachment F) as proposed by the applicant, without the condition to move the mechanical building.

Attachments

- A. Planning Commission Staff Report, July 17, 2003
- B. Draft Planning Commission Minutes, July 17, 2003
- C. Planning Commission Staff Report, August 7, 2003
- D. Draft Planning Commission Minutes, August 7, 2003
- E. Ordinance No 336 with Findings and Recommendation
- F. Ordinance No 336-A with Findings and Recommendation

ATTACHMENT A

Planning Commission Staff Report,
July 17, 2003

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Public Hearing for Special Use Permit and for Variance Permit to locate a Wireless Telecommunication Facility in the Seattle City Light Right-of-Way.

DEPARTMENT: Planning and Development Services

PRESENTED BY: Paul Cohen, Planner III

I. PROPOSAL

This Special Use Permit (SUP), a Quasi Judicial or "Type C Action," before the Planning Commission is a request to replace an existing 40-foot utility pole with an uncamouflaged, 80-foot pole with 3 vector panel antennas in the Seattle City Light Right-of-Way. The location is approximately parallel with 153rd and Aurora Ave. N. In addition, the proposal includes ground-mounted equipment located at the base of the pole. A SUP is required whenever a wireless telecommunications facility (WTF) monopole is proposed without camouflage or co-location. In addition, a Zoning Variance is required because the proposed WTF pole does not meet the 30-foot setback requirement from commercial zones. The pole is 25 feet and the ground equipment is 6 feet from commercial zoned property to the east. See Attachment A for the applicant's more detailed proposal.

A Type C action (SUP) is reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval or denial is developed. This recommendation is then forwarded to the City Council, who is the final decision making authority for Type C actions. The Variance is a Type B or administrative decision, however the variance review has been consolidated with the SUP, which elevates the entire process to a quasi-judicial decision.

Under SMC 20.30.130, "An applicant may elect to submit a consolidated project permit application. Such request shall be presented by the applicant in writing and simultaneously with submittal of all applications to be consolidated. The Director shall determine the appropriate procedures for consolidated review and actions. If the application for consolidated permit process requires action for more than one hearing body, the decision authority in the consolidated permit review process shall be the decision-making authority with the broadest discretionary powers." (emphasis added)

A building permit for the proposal has not been submitted at this time. Prior to construction on the site a building permit shall be obtained. The permit submittal will be

reviewed administratively and is subject to the requirements of the Shoreline Municipal Code (SMC) and the 1997 Uniform Building Code.

Environmental Review - SEPA review is required for this application under the City's substantial authority established in SMC 20.30.490. The SEPA Determination of Non-Significance was issued on June 19, 2003.

This report summarizes the issues associated with this project and illustrates whether the proposal meets the criteria for Special Use and Variance permits outlined in the Shoreline Municipal Code and the goals of the Comprehensive Plan.

II. FINDINGS

1. SITE

The subject site is located in the Seattle City Light R-o-W parallel to approximately 153rd and Aurora Ave N. Currently, the R-o-W is used for two lines of transmission poles. In the near future the R-o-W will be used for the Interurban Trail. A site plan, elevation, and a photographic survey showing the proposal are in Attachments B and C.

2. NEIGHBORHOOD

The project site is located in the Westminster Triangle Neighborhood. This portion of the R-o-W runs along the east side of the Westminster Triangle neighborhood and the back side of commercial property along Aurora Ave. N. There is no zoning classification for the R-o-W. The comprehensive plan land use designation is Public Facility (Attachments D and E).

3. TIMING AND AUTHORITY

The application process for this project began when the applicant held the requisite neighborhood meeting on April 9, 2003. A complete application was submitted to the City on May 16, 2003. A public notice of application and public hearing was posted at the site, advertisements were placed in the Seattle Times and Shoreline Enterprise, and notices were mailed to property owners within 500 feet of the site on June 19, 2003 (Attachment F). This notice solicited public comments but no comment letters were received.

The Planning Commission is being asked to review the Special Use by the nine criteria in Section 20.30.330 (B) and the Variance application by the eleven criteria in Section 20.30.310 of the Shoreline Municipal Code (SMC). The City Council may approve an application for Special Use of property and Variance of the proposal if all these criteria are met.

4. PUBLIC COMMENT

The City did not receive public comment letters regarding this proposed wireless telecommunications facility.

5. ANALYSIS OF SPECIAL USE CRITERIA

Section 20.30.330.B of the Shoreline Municipal Code outlines the criteria by which Special Use Permit applications are reviewed. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. The City shall grant a Special Use Permit, only if the applicant demonstrates that it meets each of the following criteria. See Attachment G for the applicant's response to criteria.

Criterion 1: The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.

The WTF is designed to provide better cell phone coverage for Shoreline residents. T-Mobile USA is not a public utility. See Attachment H for applicant's coverage needs.

The special use meets criterion 1.

Criterion 2: The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.

A WTF monopole is comparable to a utility pole, which is permitted without height limit or design standards. The Seattle City Light R-o-W and Aurora Avenue commercial district have various utility poles greater than 100 feet in height. See Attachment B - Photo Survey.

The special use meets criterion 2.

Criterion 3: The special use will not materially endanger the health, safety and welfare of the community.

The Food and Drug Administration (FDA) and the Federal Communication Commission (FCC) report that, based on current health studies, the amount of power to be used, and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. The Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions."

If approved, the City will require a building permit to construct the WTF. The City will review the monopole for and equipment for structural safety.

The special use meets criterion 3

Criterion 4: The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.

The proposal is not deemed to be a public necessity. Presently, the proposed location will not create an over-concentration of wireless telecommunication facilities (WTF). There are other WTFs in the area – mostly in the Seattle City Light Ro-W. The closest facility is located on a utility pole near where the R-o-W meets NE 155th Street (Attachment C).

The special use meets criterion 4.

Criterion 5: The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

The special use will not cause any increased pedestrian or vehicular traffic in the neighborhood except the infrequent service vehicle after construction.

The special use meets criterion 5.

Criterion 6: The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.

The need for public facilities is not increased; adequate infrastructure exists for the site.

The special use meets criterion 6.

Criterion 7: The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.

The proposed antenna monopole will be in an R-o-W with other utility poles. Utility poles and WTFs are common in the neighboring commercial property. The proposed pole replaces an existing pole with the same distance from the neighboring residential area and will not discourage or hinder development or use in the Westminster Triangle neighborhood. All other nearby property is currently fully developed.

The special use meets criterion 7.

Criterion 8: The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. The location of monopoles to meet demands and provide coverage and to be aesthetically compatible can be difficult considering the amount of residential neighborhoods in Shoreline. It is appropriate when these WTFs can locate in existing utility corridors with similar structures.

The special use meets criterion 8.

Criterion 9: The special use is not in conflict with the standards of the critical areas overlay.

The site of the proposed wireless monopole and ground-mounted equipment is not in any known critical area.

The special use meets criterion 9.

6. ANALYSIS OF VARIANCE CRITERIA

The Shoreline Municipal Code specifies the decision for a Variance Permit in section 20.30.310. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. See Attachment I for the applicant's response to criteria.

Criterion 1: The variance is necessary because of the unique size, shape, topography, or location of the subject property;

By Shoreline Municipal Code, the facility must be 30 feet from any commercially zoned property. The property is 100 feet wide, which might accommodate the required setbacks. However, the future Interurban Trail alignment has forced the WTF proposal to not meet setbacks on any alternative location in the R-o-W. The replacement of the existing pole allows the new pole to carry power lines and is closer to the commercial area but further from the residential area.

The variance meets criterion #1.

Criterion 2: The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

The strict enforcement of setback provisions creates an unnecessary hardship to the property owner to locate other utility facilities because of the right-of-way dimension and location of the Interurban Trail.

The variance meets criterion #2.

Criterion 3: The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

The subject property has no zoning therefore it cannot be compared to other properties in the vicinity.

The variance meets criterion #3.

Criterion 4: The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;

The need for the variance is not the result of deliberate actions of a past property owner but because of the City's use of the R-o-W for the Interurban Trail.

The variance meets criterion #4.

Criterion 5: The variance is compatible with the Comprehensive Plan;

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. On balance, the location of the proposed monopole in a utility corridor without zoning and adequately setback from residences is consistent with the different Comprehensive Plan policies.

The variance meets criterion #5.

Criterion 6: The variance does not create a health and safety hazard;

The City researched health and safety bulletins and a guide to transmitting antenna emission safety from the Food and Drug Administration (FDA) and the Federal Communication Commission (FCC). These agencies concluded, based on current health studies, the amount of power to be used, and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. Further, in the Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification

of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions".

The variance meets criterion #6.

Criterion 7: The granting of the variance will not be materially detrimental to the public welfare or injurious to:

a. the property or improvements in the vicinity, or

The development will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity because the WTF is within a Utility corridor and apart from the Interurban Trail.

b. the zone in which the subject property is located;

The site and property has no zoning.

The variance meets criterion #7.

Criterion 8: The variance does not relieve an applicant from:

a. any of the procedural or administrative provisions of this title, or

The proposed variance does not relieve the applicant from procedural or administrative provisions of this title because the variance procedure has been consolidated the SUP procedure.

b. any standard or provision that specifically states that no variance from such standard or provision is permitted, or

Setback standards may be varied through the zoning variance process (SMC 20.30.310).

c. use or building restrictions, or

The use can be approved through a special use permit and must meet uniform building code requirements through a require building permit.

d. any provisions of Critical Areas Overlay District requirements, except for the required buffer widths;

No critical areas are located on the subject property.

The variance meets criterion #8.

Criterion 9: The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

No easements or covenants are recorded for this site adjacent to or regarding setbacks.

The variance meets criterion #9.

Criterion 10: The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

An uncamouflaged WTF is not permitted outright in the City but may be allowed through the Special Use Permit process.

The variance meets criterion #10.

Criterion 11: The variance is the minimum necessary to grant relief to the applicant.

The variance request is the minimum dimension needed to provide a site for the ground equipment and antenna pole because of the other setbacks needed from a commercial development.

The variance meets criterion #11.

III. CONCLUSIONS

The applicant has proposed a WTF that meets their needs and the criteria for both the SUP and Variance. They propose to locate the uncamouflaged, monopole away from the Interurban Trail, and commercial and residential zoned properties. The City's criteria are meant to test this proposal to assure that WTFs are appropriately sited and based on the above analysis.

Staff recommends approval of the Variance and the SUP.

IV. PLANNING COMMISSION ROLE AND OPTIONS

The Planning Commission is required to conduct a Public Hearing on the proposal because this is a Type C action. The Commission should consider the application and any public testimony and develop a recommendation for approval or denial. The City Council will then consider this recommendation prior to their final decision on the application.

The Variance cannot be separately approved or denied from the SUP because there are no alternative sites on the property, which can avoid violating a setback requirement of the Shoreline Municipal Code.

Planning Commission has the following options for their recommendation to the City Council:

1. Recommend denial of the SUP and Variance based on the staff findings and conclusions.
2. Recommend approval of the SUP and Variance based on new findings and conclusions as amended by the Planning Commission.

IV. STAFF RECOMMENDATION

Staff recommends that the Planning move to recommend to the City Council that both the proposed Special Use and Variance be approved located in the Seattle City Light Right-of-Way and enter into findings based on the information presented in this staff report that this proposal meets the decision criteria for the Variance and Special Use Permits as outlined in the Shoreline Municipal Code Section 20.30.310 and .330.

ATTACHMENTS

Attachment A: Applicant's Proposal
Attachment B: Site Plan and Elevation
Attachment C: Photo Survey
Attachment D: Vicinity Map with Zoning Designations
Attachment E: Vicinity Map with Comprehensive Plan Designations
Attachment F: Public Notice
Attachment G: Applicant's Response to SUP Criteria
Attachment H: WTF Coverage and Service Demand /Qualification and Certification
Attachment I: Applicant's Response to Variance Criteria

ATTACHMENT A

Project Description:

T-Mobile is in the process of integrating their newest technology into our existing wireless communication system called Persona Communication Service (PCS). PCS is a unique combination of telecommunication services that will provide the public with the next generation of wireless devices, such as: compact cellular telephones with paging and voicemail service, wireless fax machines and fax modems, internet access, and an array of other customized mobile equipment. Ultimately, PCS will allow for an all-in-one telecommunications device combining multiple services in a single wireless telephone.

In order to provide these services T-Mobile is developing a PCS network in the greater Puget Sound area. PCS works by splitting a region into small geographic areas called cells, that are each served by a transmitter and receiver or "base station." As a caller moves across the landscape, the call is passed or "handed-off" from one base station to another. Each base station is connected to a mobile telephone switching office, which linked to the land based phone network serving your home or office.

The T-Mobile network has a coverage gap or hole within our system on Highway 99 between 165th Ave & 145th Ave, and the surrounding neighborhood. In order for the entire network to work in concert, covering and handing-off calls to various sites, this gap in the hole must be filled. T-Mobile is proposing to locate a personal Wireless Communication Facility on a replacement utility pole on Seattle City Light Right of Way property adjacent to: 15215 Aurora Ave. N., so we may provide coverage this area.

T-Mobile tries to locate in areas that will have minimal impact to the surrounding area and community. In this instance we have chose the Seattle City Light Right of Way due to similar existing structures and ability to blend with the use of the parcel currently. The existing wooden pole will be replaced with a 70' pole and will have flush mounted antennas to integrate their design with the pole.

The associated radio equipment will be located west of the existing pole in the Right of Way west of the proposed City of Shoreline Trail. To camouflage the ground equipment- it will be enclosed in a 6' cedar fence and surrounded by 5' of landscaping (see attached drawings). To camouflage the antennas they will be flush mounted so they blend with the actual pole. Ground equipment it will be placed in a shed allowing for both security and site buffering.

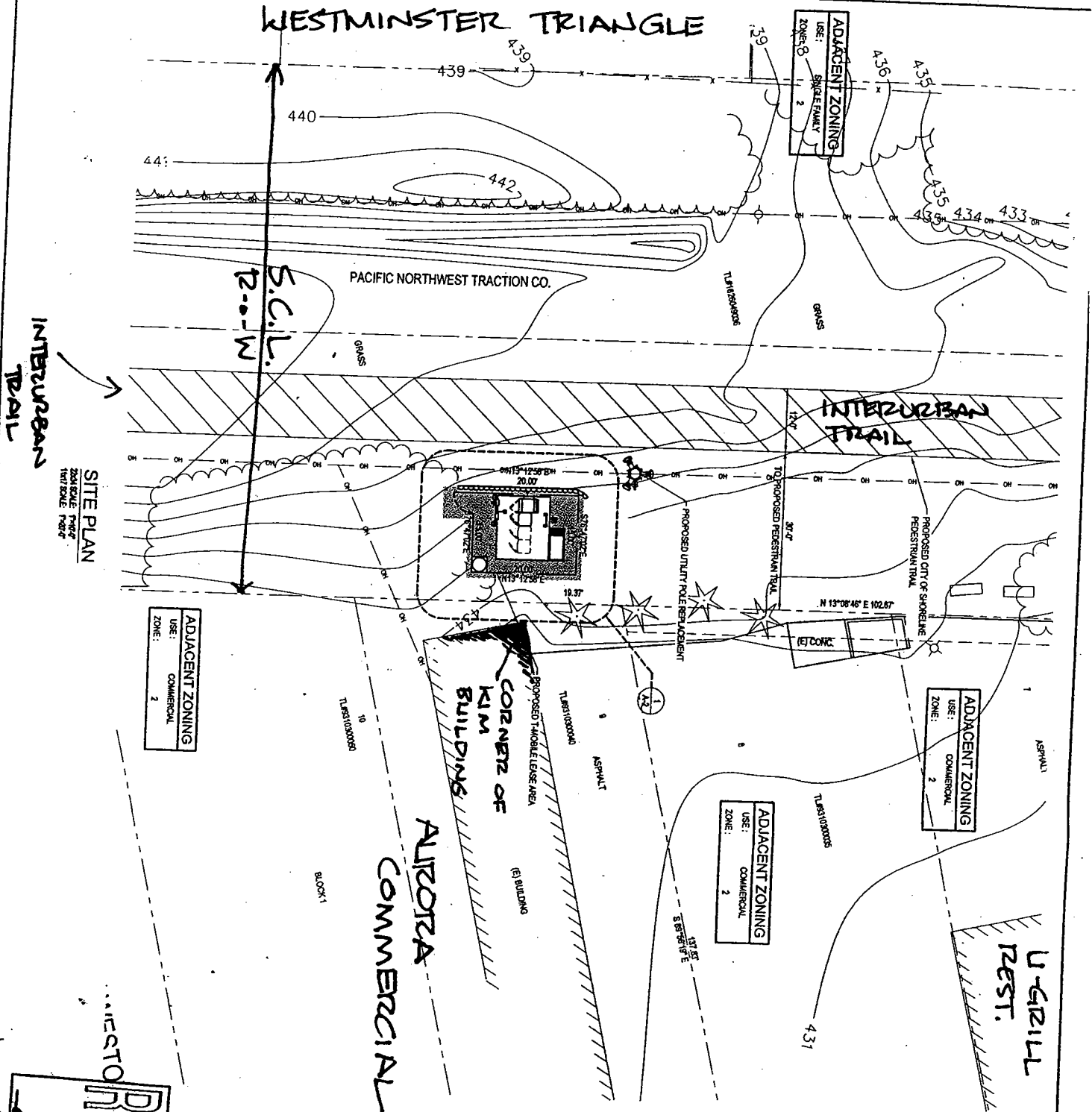
Site Selection/Design

As outlined above, this particular site proposal was developed to provide T-Mobile the infrastructure necessary to provide adequate coverage to this portion of the City of Shoreline. A serious gap in coverage would be created without development of the subject facility, specifically Highway 99 between Highway 99 between 156th Ave.

T-Mobile Dayton St. Application
Contact: Angela Brooks
(425) 415-8505
angie.brooks@t-mobile.com

ATTACHMENT B

WESTMINSTER TRIANGLE



U-GIRLL
REST.

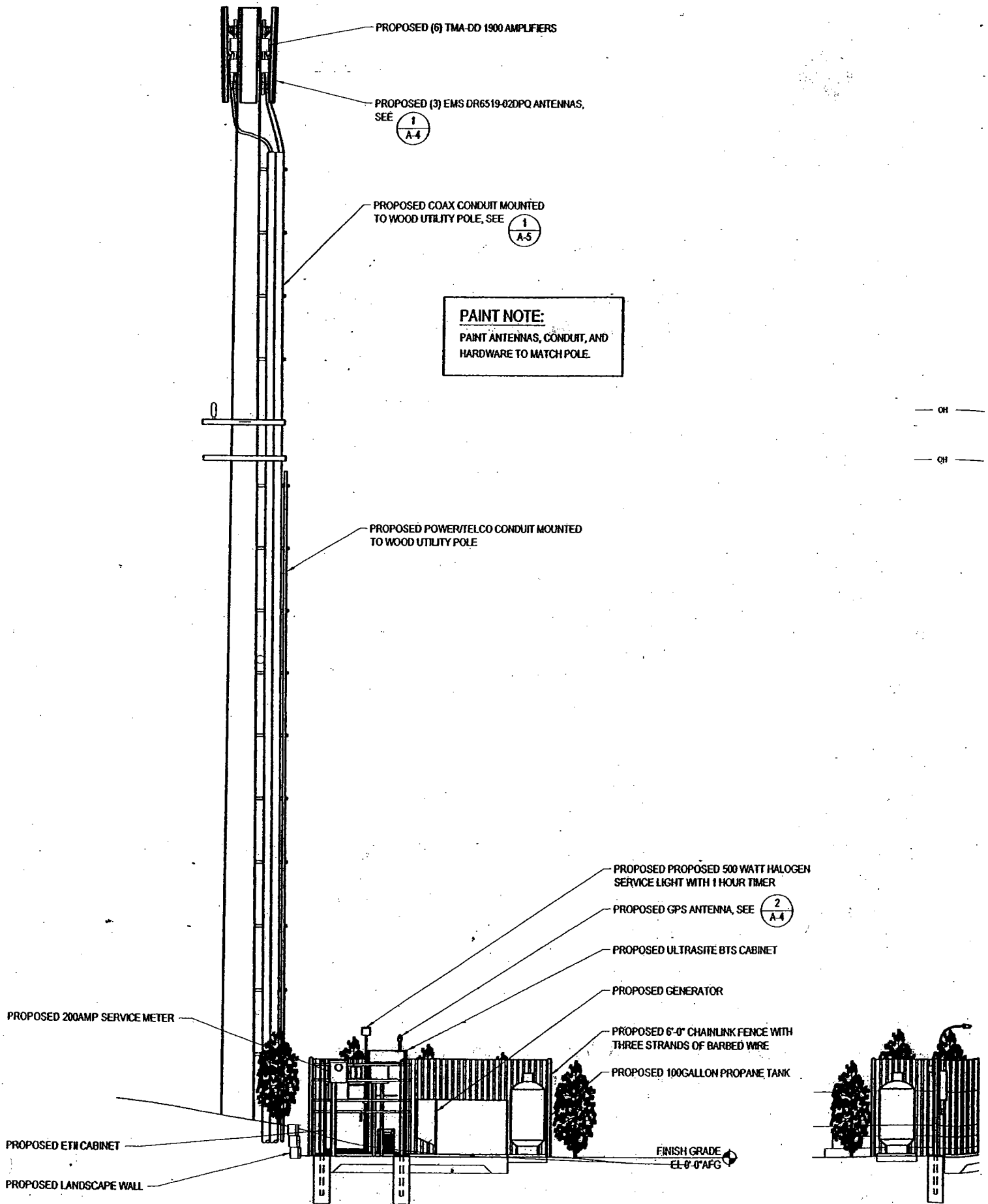
LEGAL DESCRIPTION

THAT PORTION OF LOT 2, BLOCK 2, NORTH SIDE FIVE, TRACTS, ACCORDING TO THE PLAT THEREOF, RECORD COUNTY, WASHINGTON, AND OF THE VACATED CORNER ROAD, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 2, TRACT 2, OF SAID PLAT OF NORTH SIDE FIVE, A336, 32.00 FEET; THENCE NORTH 89°53'57" WEST A DISTANCE OF 100.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 1°44'41" WEST PARALLEL TO THE WEST LINE OF SAID LOT 140 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID LINE NORTH 1°44'41" WEST 78 FEET; THENCE SOUTH 89°53'57" EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 140 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 45°58'12" EAST ALONG SAID SOUTHWESTERLY LINE 108.42 FEET TO A POINT FROM WHICH THE TRUE POINT OF BEGINNING BEARS NORTH 89°53'57" WEST; THENCE NORTH 89°53'57" WEST 228.46 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT PORTION THEREOF DESCRIBED AS FOLLOWS BEGINNING AT A POINT ON THE SOUTH LINE OF TRACT 2, OF SAID PLAT, WHICH IS SOUTH 89°53'57" EAST 200 FEET FROM THE SOUTHWEST CORNER THEREOF; THENCE NORTH 1°44'41" WEST PARALLEL TO THE TRUE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE SOUTH 89°53'57" EAST ALONG SAID PARALLEL WITH THE SOUTHWEST LINE OF SAID TRACT A DISTANCE OF 100.00 FEET; THENCE SOUTH 89°53'57" WEST 104.48 FEET; THENCE NORTH 1°44'41" WEST ALONG SAID PARALLEL TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°53'57" WEST 228.46 FEET TO THE TRUE POINT OF BEGINNING.

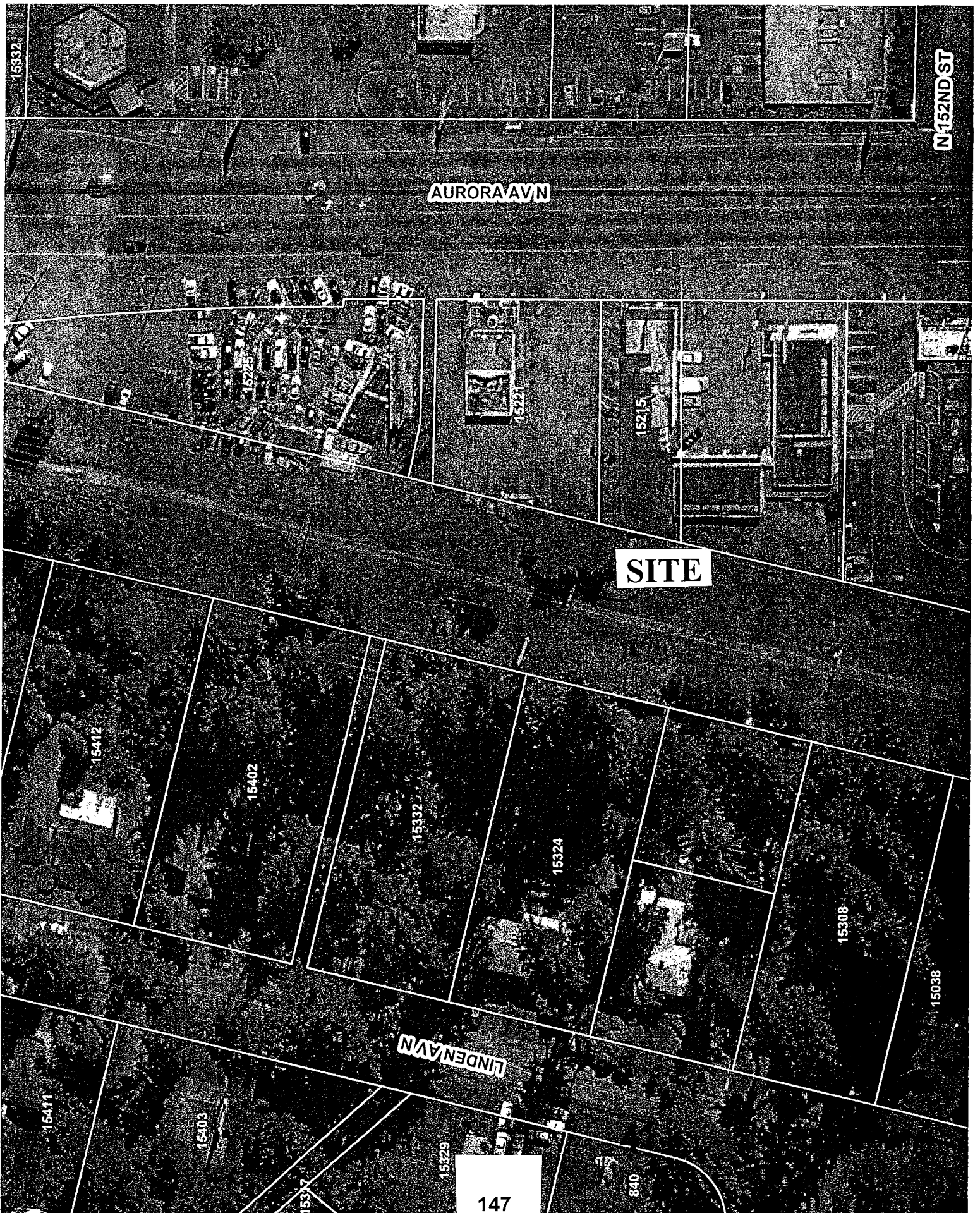
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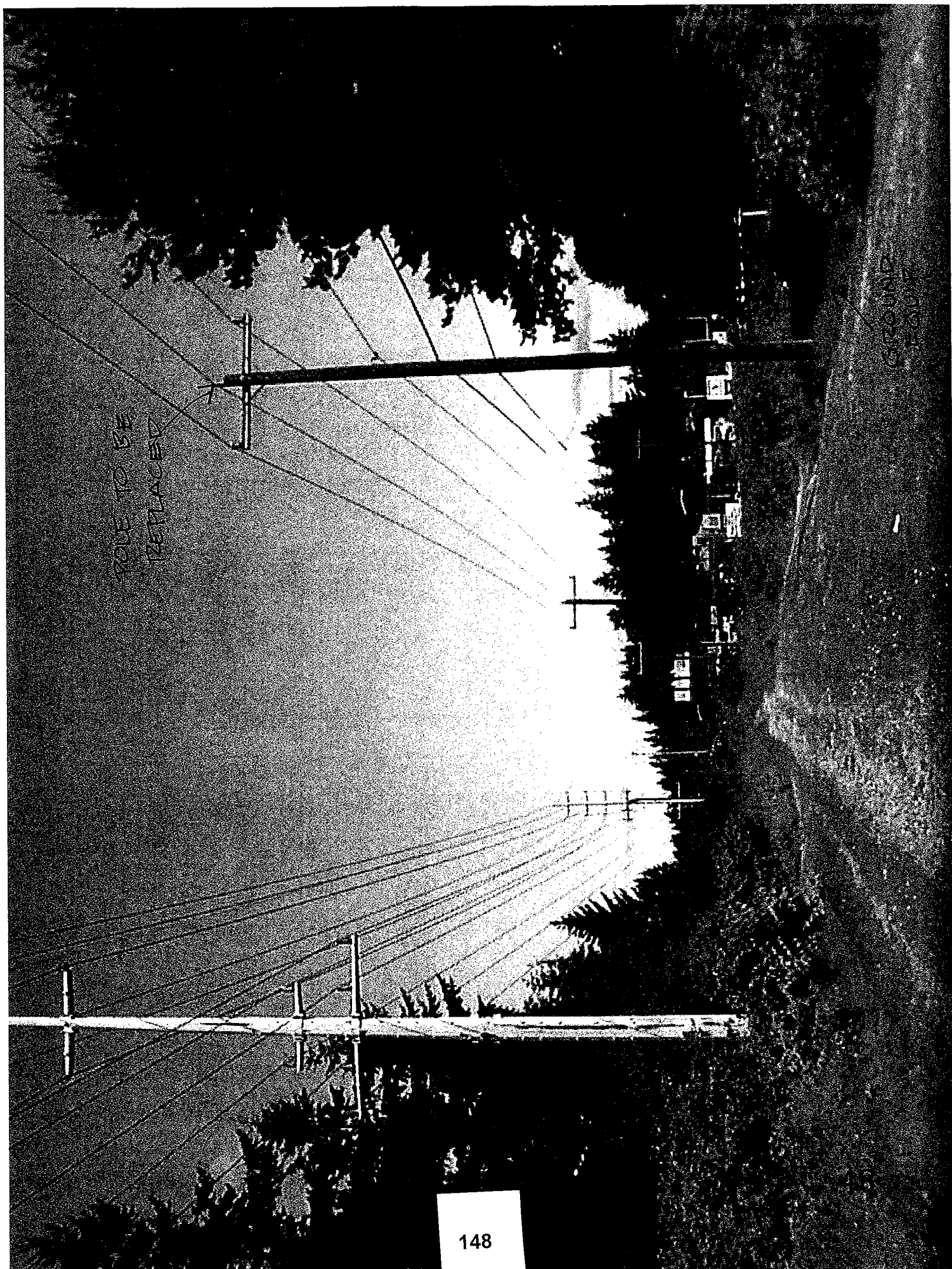
$\frac{A}{A-2}$ **SOUTH ELEVATION**
22x34 SCALE: 1/4"=1'-0"
11x17 SCALE: 1/8"=1'-0"

06

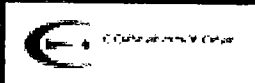
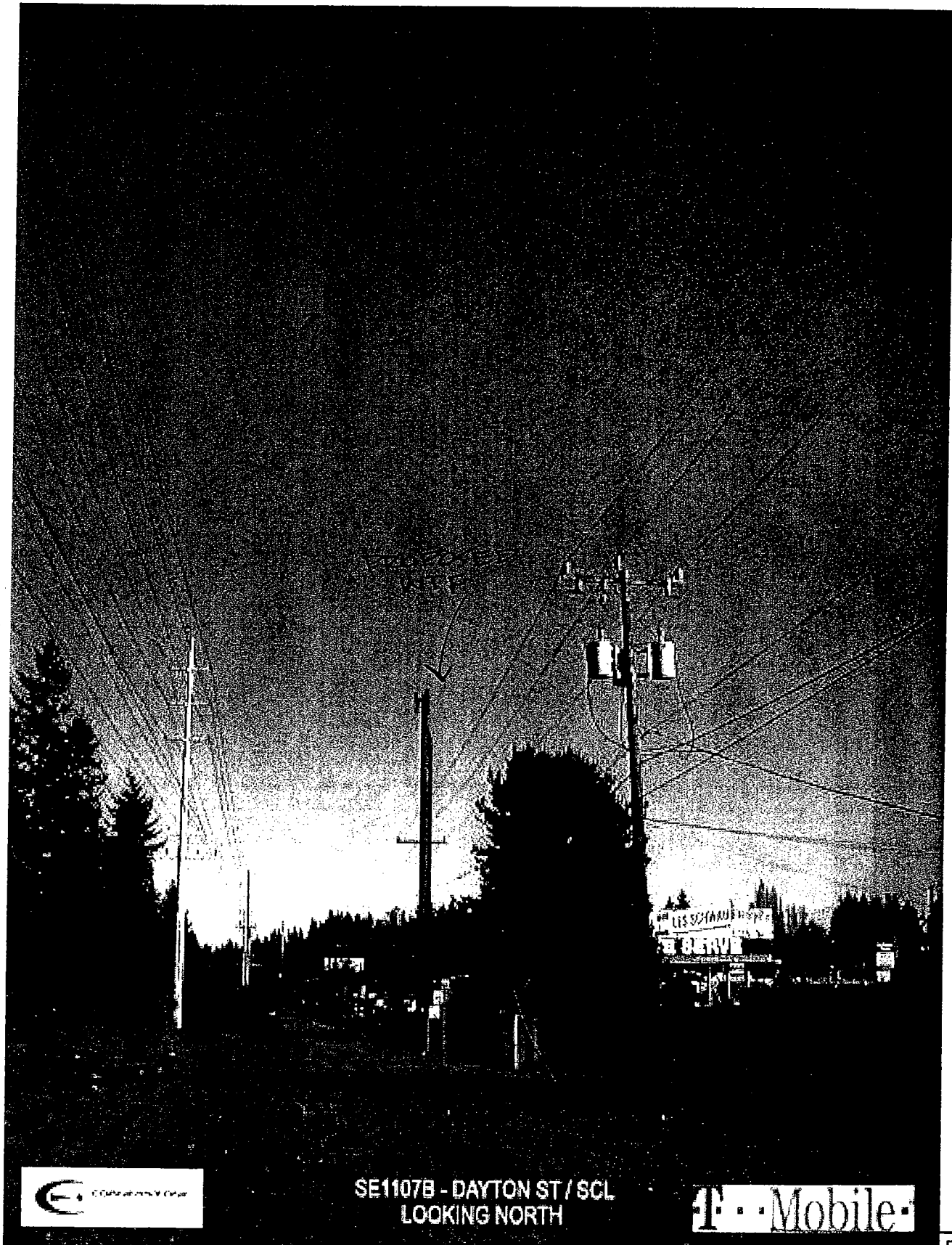
ATTACHMENT C



EXISTING SITE - VIEW NORTH



PROPOSED VIEW NORTH



SE1107B - DAYTON ST / SCL
LOOKING NORTH

T-Mobile

PROPOSED VIEW SOUTH

PROPOSED
POLE +
GROUND
EQUIP



T-Mobile

SE1107B - DAYTON STREET / SCL
LOOKING SOUTH

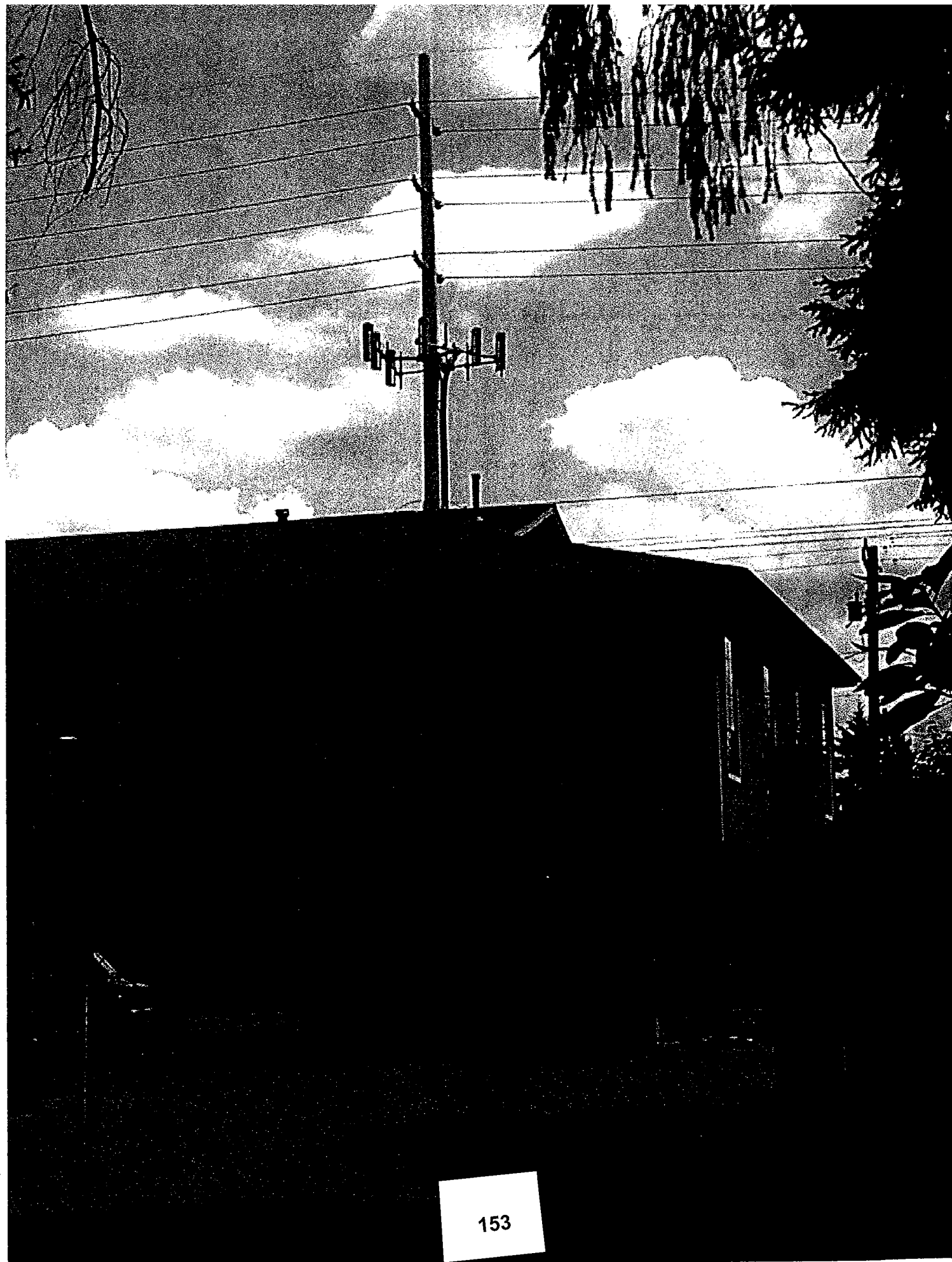
CONNECTION ONE



SEATTLE CITY LIGHT CORPORATION - SOUTH FROM AIRPORT AVE. N.

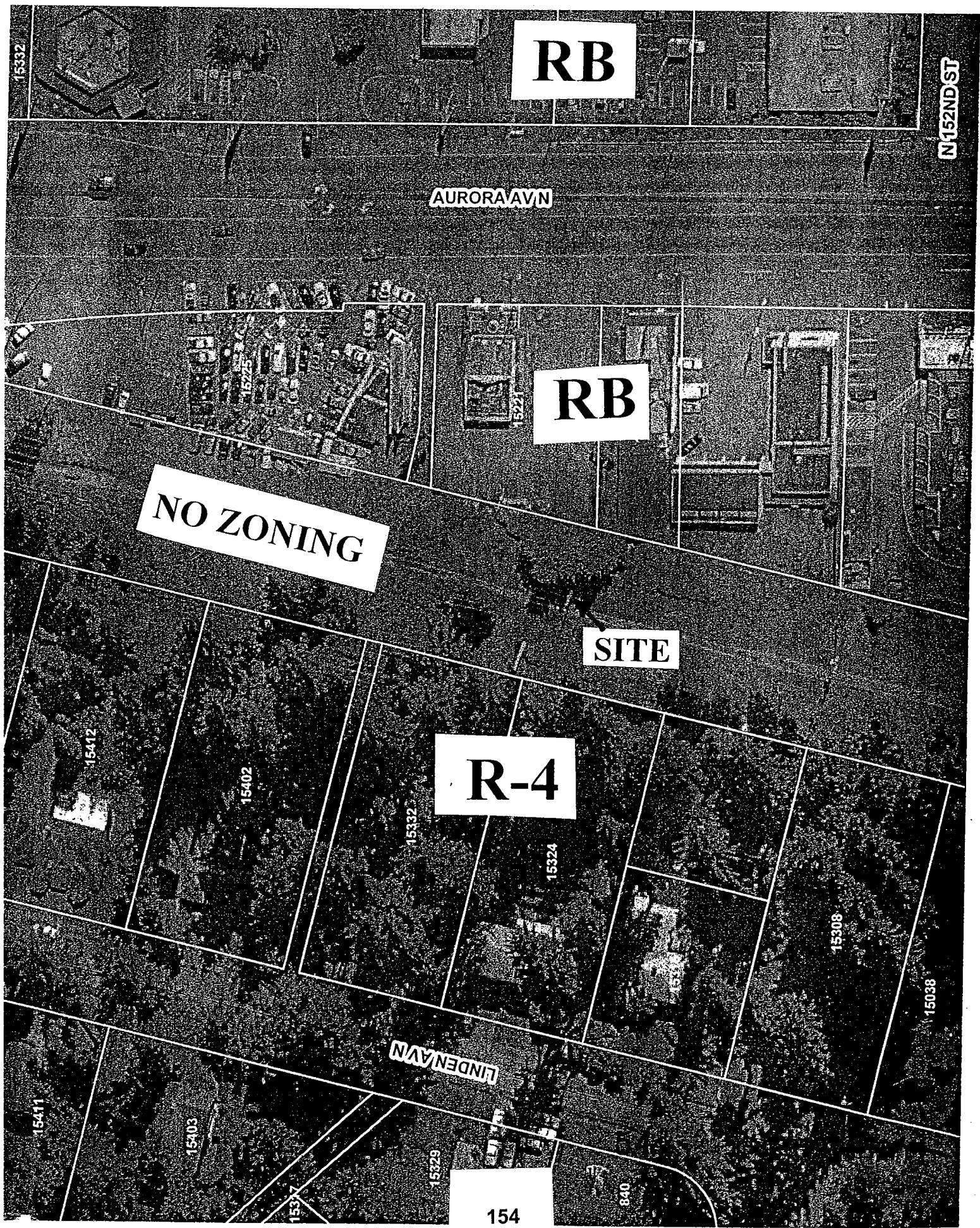


WESTMINSTER THIRLAGE & CO



153

EXISTING WTF IN S.C.L. TR-O-W TOWARD N. 160TH.







Planning and Development Services

17544 Midvale Avenue N., Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

NOTICE OF APPLICATION AND PUBLIC HEARING FOR T-MOBILE USA WIRELESS MONOPOLE

PROJECT INFORMATION

PROPOSED ACTION:	Special Use Permit and Variance Permit
PROPOSED PROJECT DESCRIPTION:	The construction of an uncamouflaged, 80-foot monopole with 3 panel antenna and screened mechanical equipment at the base. A SUP is required because it is an uncamouflaged monopole. A variance is required because it does not meet setback requirements from commercial zones.
PROJECT NUMBER:	201222
PROPERTY OWNER/APPLICANT:	T-Mobile USA (applicant)
LOCAL AGENT:	Angela Brooks for T-Mobile USA
LOCATION:	Seattle City Light R-o-W west of and near 153 rd and Aurora Ave N
CURRENT ZONING:	None
CURRENT COMPREHENSIVE PLAN LAND USE DESIGNATION:	Public Facility
DATE OF APPLICATION:	April 22,, 2003
DETERMINATION OF COMPLETENESS:	May 16, 2003
SEPA DETERMINATION OF NON- SIGNIFICANCE	June 19, 2003 (Attached)
EFFECTIVE DATE OF NOTICE:	June 19, 2003
END OF PUBLIC COMMENT PERIOD:	July 3, 2003
OPEN RECORD HEARING DATE:	July 17, 2003, 7:00 P.M. Shoreline Center, Board Room, 18560 1 ST AVE NE, Shoreline WA

PROJECT REVIEW

The Planning and Development Services Department has conducted an initial evaluation of the project proposal in accordance with procedures outlined in the Shoreline Municipal Code. Issuance of this Notice of Application and Public Hearing does not constitute approval of this project proposal for construction. Additional conditions based on public comments and further staff review may be required for incorporation into the project proposal. Preliminary determination of the development regulations that will be used for project review and consistency include, but are not limited to: the *Shoreline Municipal Code*, *City of Shoreline Comprehensive Plan*, *Uniform Building Code*, *Uniform Fire Code*, and *King County Surface Water Design Manual*.

A SEPA determination of Non-significance has been issued on June 19, 2003.

PUBLIC COMMENT on SUP and Variance

The Planning Commission will conduct an open record public hearing on **Thursday, July 17, 2003 at 7:00 p.m.** in the Board Room of the Shoreline Conference Center at 18560 First Ave NE, Shoreline, WA. Public testimony will be accepted during this hearing. All interested Citizens are encouraged to attend the public hearing and may provide written and/or oral testimony during the public comment period of the hearing. The Planning Commission will make a recommendation on this project proposal to the Shoreline City Council. The City Council is the final decision making authority on this project. Appeals City Council decisions shall be made to Superior Court. The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 206.546.8919 in advance for information. For TTY telephone service, call 206.546.0457. For up-to-date information on future agendas, call 206.546.2190. For questions or comments, contact the project manager, Paul Cohen, at 206.546.6815, or write to Planning and Development Services, City of Shoreline, 17544 Midvale Avenue N., Shoreline, WA 98133.

Operation

The proposed facility will be unmanned and therefore, will not require water, waste treatment or management of hazardous waste and no hazardous material will be utilized or stored at the site. Minimal traffic will be generated during the construction phase while the construction crew is traveling to and from the site. After construction is complete, there will be approximately one visit per month by a field engineer to perform safety inspection and routine maintenance.

Minimizing Hazards and Nuisance

The proposed facility is a passive use in that the facility will not be staffed and operation is fully automated. No activities will take place on the site that will produce airborne emissions, odors, vibrations, heat, glare, or hazardous wastes. There is no known environmental health hazards that occur because of wireless communication facilities, and all radio frequency output is strictly mandated by the Federal Communications Commission (FCC). The facility will not contribute significantly to storm water runoff or cause erosion since our proposed equipment will be on a concrete pad.

Special Use Permit – conditions for granting:

- (1) *The use will provide a public benefit or satisfy a public need of the neighborhood, district, or City;*

Communities must develop the communication infrastructure as thoroughly as they do with sewers, roads, and other public utilities. Poorly designed or insufficient communication infrastructure will prevent wireless providers from providing adequate education, service, information, and safety services. This site will enhance coverage for T-Mobile customers in the area as well as expand opportunities for other carriers who roam on our network.

T-Mobile's FCC license requires it to operate its system in a defined service region using designated radio frequencies. Each site must be precisely located relative to other sites. T-Mobile's System must reflect the contours and topography of the area and the radius of the antenna's reliable transmission. The subject site was carefully selected in order to have minimal impact on adjacent or nearby properties. T-Mobile's network dictates that a site be at this location to avoid a gap in their service to this area of the City of Shoreline. As outlined above, this particular site was acquired to allow T-Mobile to develop the infrastructure necessary to provide adequate coverage to this area of Shoreline. A serious gap in service would be created without the development of this facility to T-Mobile customers. Propagation maps and RF Emissions information are attached.

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Contact: Angela Brooks
(425) 415-8505
angie.brooks@t-mobile.com

providing vital means of the communication during times of emergency when traditional land lines are not available or in cases of power failure. The carefully selected and designed facility allows for these calls to occur.

- (2) *The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas;*

T-Mobile has selected the site that provides maximum coverage with minimal impact to the surrounding properties and community, by proposing a wooden pole similar to existing SCL poles in the immediate area and of similar height. The proposed location of the antennas and the pole is such that the location takes full advantage of the existing development and terrain in the area. (See attached photo-simulations). The pole site is located in the City of Shoreline Right of Way. This site will be consistent with existing development in the right of way and will be designed to camouflage the antennas to the greatest extent possible.

- (3) *The special use will not materially endanger the health, safety, and welfare of the community;*

The facility will be unmanned and will only be visited once monthly for routine maintenance. The facility will comply with the strict guidelines of the FCC, which are designed to protect the public safety. To ensure structural integrity of the pole, T-Mobile will construct and maintain in compliance with all federal, state, and local building codes and standards.

The site will also be remotely monitored for fire, smoke, and intrusion.

- (4) *The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.*

The proposed location is consistent with the uses in the Right of Way. This facility shall not result in a detrimental over-concentration of this use with the site and throughout the application demonstrates how this location was selected and the need for the PWSF at this location. This use in this location is normally permitted outright on the existing 100' wooden poles, however SCL will not allow us to locate on those taller utility poles.

- (5) *The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.*

The facility will be fenced and locked, and located within the Right of Way (pole) and in a carport (ground equipment). Minimal traffic will be generated during the

The facility will be fenced and locked, and located within the Right of Way. Minimal traffic will be generated during the construction phase while the construction crew is traveling to and from the site. They will access the site through the Seattle light ROW as any other City Light vehicle would reach the site. After the two-week construction period is complete, there will be approximately one visit per month by a field engineer to perform safety inspection and routine maintenance.

- (6) *The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;*

The proposed WCF is non-staffed and doesn't require public facilities nor will it have any impact on such facilities in the area. No mitigation conditions are necessary to address this issue. The construction manager on site will address any impact on private facilities, such as gravel roads during construction during construction. Any repairs will be made at the time of construction.

- (7) *The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.*

T-Mobile has entered into a lease agreement with the property owner for a 15' x 20' project area. The proposed facility will be comprised of a wooden fenced area with equipment cabinets located approximately 10' from the edge of the Right of Way. The ground equipment has been moved east of the original proposal to accommodate the City of Shoreline trail proposed to be developed through the Right of Way.

- (8) *The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title; and*

U4 – Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

T-Mobile is applying for this permit in order to meet the demand of service of our network in this area of the City of Shoreline.

U9 – Encourage the design, siting, construction, operation, and relocation or closure of all utility systems in a manner which: ..minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

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April 14, 2003

Site Ref: SE-1107B Dayton Street/SCL

To Whom It May Concern:

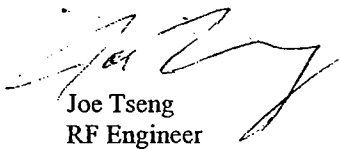
The height of this wireless communication facility (WCF) needs to be 70 feet to meet the desired coverage objectives on SR 99 (Aurora Ave), N 155th St, and the surrounding neighborhoods. The height is based on the surrounding terrain profile and the average elevation of nearby vegetation. In addition the facility has been modeled using radio frequency propagation tools to verify the minimum operating height. The height of this facility cannot be reduced and still meet the desired coverage objectives. From the top of a wireless facility at one degree below the horizon the distance from the tower is increased 573 ft for every ten feet of additional tower height.

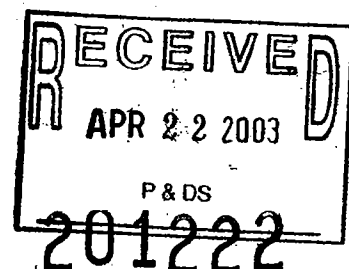
The legend of the prediction plot shows several different classes of best servers. The various colors of the plot indicate where a T-mobile handset can be reliably used to make and receive telephone calls in the presence of varying receive signals. The terrain, foliage, nearby structures, and WCF location are taken into account. The further the distance from the WCF, or the more abundant the clutter (trees, buildings, etc.) between the WCF and the handset, the weaker the receive signal will be. The following is a short explanation of each server class:

- Outdoor only coverage is represented by receive signals greater than or equal to -91dBm (typically green).
- In-Vehicle and outdoor coverage are represented by receive signals greater than or equal to -82 dBm (typically yellow).
- Residential, in-vehicle, and outdoor coverage are represented by receive signals greater than -78 dBm (typically orange).
- Suburban in building, residential, in-vehicle, and outdoor coverage are represented by receive signals greater than -73 dBm (typically red).
- Urban in-building, suburban in building, residential, in-vehicle, and outdoor coverage are represented by receive signals greater than -68 dBm (typically blue).

If you have any questions please feel free to contact me at (425) 398-7549.

Sincerely,


Joe Tseng
RF Engineer



ATTACHMENT I

This site was selected to utilize existing utility structures for the placement of our antennas. The proposed location is the best alternative in the section to allow for the minimizing of the wireless facility on the surrounding area. By looking at the attached photosim's we have demonstrated that our facility will blend with existing similar structures in the area and we will flush mount our antennas to the replacement wooden pole to blend the antennas with the design of the pole.

- (9) *The special use is not in conflict with the standards of the Critical Areas Overlay.*

There are no critical areas on this site.

Variance:

- (1) The variance is necessary because of the unique size, shape, topography, or location of the subject property;

The variance for this site is necessary due to the uniqueness of this parcel. This is a 100' wide Right of Way adjacent on the west to residential property and the east commercial property. The original proposal allowed for the both the replacement pole and ground equipment to meet the 50' from adjacent residential setback and 30' from adjacent commercial property. During the pre-application meeting the applicant was made aware of the proposed City of Shoreline 12' Trail that will begin 30' from the western edge of the Right of Way. That would leave approximately 58' in the right of way left for the ground equipment placement. However that would place our ground equipment within the 50' residential zone setback. There is no way to meet both the residential and commercial zone setbacks on this parcel.

- (2) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

As a lessee we have an interest in the land as the owner and our entitled to apply as such. T-Mobile's FCC license requires it to operate its system in a defined service region using designated radio frequencies. Each site must be precisely located relative to other sites. T-Mobile's system must reflect the contours and topography of the area and the radius of the antenna's reliable transmission. The subject site was carefully selected in order to have minimal impact on adjacent or nearby properties. Without the development of a site in this very specific area in the City of Shoreline there would be a significant gap in coverage in our overall network as demonstrated in our attached propagation maps.

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angie.brooks@t-mobile.com

(6) The variance does not create a health and safety hazard;

This site will not create a health and/or safety hazard. The facility will be unmanned and will only be visited once monthly for routine maintenance. The facility will comply with the strict guidelines of the FCC, which are designed to protect the public safety. To ensure structural integrity of the pole, T-Mobile will construct and maintain in compliance with all federal, state, and local building codes and standards.

The site will also be remotely monitored for fire, smoke, and intrusion.

(7) The granting of the variance will not be materially detrimental to the public welfare or injurious to:

i. The property or improvements in the vicinity;

This development of this proposal will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity because the public does not currently use the right-of-way. The ground equipment was moved to be out of the way of the proposed trail. When the proposed new trail is developed the ground equipment will not provide a hazard as it will be locked in a secure fence and surrounded by a 5-foot landscape buffer. The site will also be remotely monitored for intrusion and fire and appropriate agency will be contacted immediate if other are detected.

ii. The zone in which the subject property is located;

This portion of the Right of Way has no zoning designation.

(8) The variance does not relieve an applicant from:

(a) any of the procedural or administrative provisions of this title, or

The proposed variance does not relive T-Mobile from procedural or administrative provisions. T-Mobile will be applying for all necessary permits including SEPA, Special Use Permit, and Building Permit.

(b) any standard or provision that specifically states that no variance from such standard or provisions is permitted or SMC 20.30.310 allows for setbacks to be varied.

(c) Use or building restrictions

This use can be Specially Permitted.

(9) The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

There are no known easements or covenants recorded for this site.

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ATTACHMENT B

Draft Planning Commission Minutes,
July 17, 2003

CITY OF SHORELINE**SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING**July 17, 2003
7:00 P.M.Shoreline Conference Center
Board Room**PRESENT**Chair Doennebrink
Commissioner Doering
Commissioner Gabbert
Commissioner Kuboi
Commissioner Piro
Commissioner MacCully**STAFF PRESENT**Tim Stewart, Director, Planning & Development Services
Rachael Markle, Planning Manager, Planning & Development Services
Paul Cohen, Planner III, Planning & Development Services
Lanie Curry, Planning Commission Clerk**ABSENT**Vice Chair Harris
Commissioner McClelland
Commissioner Sands**1. CALL TO ORDER**

Chair Doennebrink, who presided, called the regular meeting to order at 7:00 p.m..

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Doennebrink, Commissioners Doering, Kuboi, Piro, Gabbert and MacCully. Vice Chair Harris and Commissioners Sands and McClelland were excused.

3. APPROVAL OF AGENDA

Chair Doennebrink noted that there were no minutes available for Commission approval. Therefore, this item should be removed from the agenda.

COMMISSIONER DOERING MOVED TO APPROVE THE AGENDA AS AMENDED.
COMMISSIONER PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. PUBLIC COMMENT

Amy Pleasant, 19520 – 15th NW, inquired if the agenda also includes a public hearing on the AT&T antenna at Crista. Chair Doennebrink answered that this antenna would not be discussed as part of the agenda.

Ms. Pleasant said that she appealed the third wireless antenna at the Richmond Beach Congregational Church. At that time, she also researched the AT&T antenna that is proposed for the Crista site. She found that there are already 17 antennas in that location. When antennas are co-located in a location where a lot of antennas already exist, she asked how the community could be ensured that the emissions from the antennas would be in compliance with the FCC requirements. She asked that her name be added as a person of record when the new antenna on the Crista site is discussed in the future.

Mr. Cohen said he is familiar with most of the wireless communications facilities that apply to the City for approval. The type of review that is required depends upon what is being proposed. Tonight's two applications are different in nature. He said he is not aware of any application for an antenna at the Crista site at this time. However, in the past, there have been applications for antennas to be placed on the radio tower that is located on the Crista site.

Mr. Cohen referred to Ms. Pleasant's question as to how the City would monitor the amount of emissions coming from antennas. He explained that through the 1996 Telecommunications Act, wireless facilities under a certain threshold of power were excluded from local government control. He further explained that all cellular or wireless companies must apply to the FCC for a license. The FCC tracks these licenses and reviews the amount of emissions to determine whether they exceed or are below the threshold. If there is a problem with a particular site because there are multiple antennas on one structure, anyone can request the FCC to test it. He summarized that all radio frequencies, emissions, power, etc. are handled through the FCC's licensing procedures.

Ms. Pleasant said that according to the documentation she has read on the issue, the FCC and the local governments must share this responsibility. The pattern in history is that this issue has not been dealt with because interpretation sections have not been used correctly. She said it is the public's right, and it is also the law of demand, that these antennas meet the FCC standards. It behooves the City to make sure that the cumulative impact of multiple antennas in one location does not exceed the FCC standards.

Commissioner Kuboi inquired if there is a standard definition for the word "antenna". Mr. Cohen said that lately, the City has been receiving applications for panel vector antennas. These are typically about four feet tall and one foot wide. They typically come in groups of three, with each vector covering a third of the circumference. He clarified that these would be considered one installation, but three antennas. He said there are also whip antennas, which are long, flexible antennas that are mounted on the sides of buildings and water towers. They are used for both receiving and sending signals.

B. Type C Quasi-Judicial Public Hearing to Consider a Special Use Permit and Variance for the Construction of an Uncamouflaged, 80-Foot Monopole with 3 Panel Antenna and Screened Mechanical Equipment to be Located at the Seattle City Light Right-of-Way West Near 153rd and Aurora Ave North

Chair Doennebrink reminded the Commissioners of the Appearance of Fairness Rules requiring the Commissioners to disclose any communication that they might have received about the subject of the hearing outside of the hearing. He briefly reviewed the rules and procedures for the hearing, and then opened the public hearing.

Chair Doennebrink inquired if any of the Commissioners received ex-parte communications regarding the subject of the hearing. None of the Commissioners or any one in the audience voiced a concern regarding the appearance of fairness rules.

Mr. Cohen explained that this proposal has a lot of similarities to the prior proposal in that it requires both a special use permit and a variance. A special use permit is necessary because the proposal is for an uncamouflaged, ground mounted monopole. A variance is necessary because the proposal does not meet the City's setback and height requirements for the zone. Both actions have been combined into one decision.

Mr. Cohen said the proposal is to replace an existing 40-foot utility pole with an 80-foot utility pole, with ground mounted equipment located at the base of the pole. He provided an aerial map to illustrate the proposed site, as well as adjacent properties. He particularly noted the R-4 zoning that is located to the west, as well as the commercial zoning and Seattle City Light right-of-way, which has no zoning designation. He provided several pictures to illustrate the location of the existing pole that would be replaced, as well as the surrounding properties. He noted that the proposed pole would be located on Seattle City Light right-of-way, which is a heavily used utility corridor. He noted that the proposed site is relatively flat and part of a 100-foot wide right-of-way.

Mr. Cohen explained that because of the location of the Shoreline Interurban Trail there was no other location for a utility without requiring some setback variance either to the Westminster property to the west or the to the commercial property to the east. He provided a map illustrating the location of the right-of-way, the existing pole, and the Interurban Trail. He explained that if the applicant were to place the pole further to the west, they would be unable to meet the 50-foot setback requirement for residential areas. If the pole were moved to the east, they would be unable to meet the 30-foot setback from commercial properties. The applicant felt the best option would be to use the existing utility pole and to ask for a variance to the setback requirements from commercial property instead of from residential property.

Mr. Cohen said staff reviewed the application and found that it meets all of the criteria for a special use permit and a variance. He specifically referred to Special Use Permit Criterion 4, which was previously discussed by the Commission at length. He said that because there is no definition for the term "over-concentration" staff considered that the proposed location is within a utility corridor with no zoning.

He noted that the height restriction would not apply because there is no height limit where there is no zoning. In addition, because the proposed site is adjacent to commercial property and a major utility corridor, staff did not consider the potential of over-concentration.

Next, Mr. Cohen referred to the variance criteria and reminded the Commission that height is not an issue because the corridor is not zoned. In addition, there is no other location for the pole within the existing right-of-way that would meet all of the setback requirements. The applicant has proposed to place the pole in the area that would, hopefully, have the least impact on the adjacent residential properties. Therefore, staff believes the applicant has met Variance Criterion 1.

Mr. Cohen referenced Variance Criterion 2 and explained that the strict enforcement of the setback provisions would create an unnecessary hardship for the property owner to locate other utility facilities because of the right-of-way dimension and location of the Interurban Trail.

The Commission agreed that since they have all read the staff report regarding each of the criteria, the staff should conclude their presentation so that the public would be able to provide their comments.

Ms. Markle advised that it would be appropriate for the Commission to ask if the applicant would also agree to the Commission asking questions based on the written proposal before them versus a formal presentation. However, she noted that the applicant should have an opportunity for rebuttal at the end of the public hearing. Ms. Brooks, the applicant's representative, agreed that no formal presentation was necessary.

Soon Kim, 15215 Aurora Ave North, provided her comments in Korean. Cindy Ryu translated Soon Kim's statements into English as follows (Attachment A):

This is Soon Kim, and she is the building owner at 15215 Aurora Ave North, which is just next to the T-Mobile tower that is being proposed. She said she is present to oppose the proposal for the following reasons:

- This is not a very wide property. For T-Mobile to be there for so long, most likely they will be using the side next to her property to access the site. In the past, they have used her parking lot to access the pole. More than looking at profit, they should look at the lack of beauty. Also, it will create a wall against her building for a long time. For her tenants and customers, it will be a claustrophobic feeling.
- She heard that the pole is supposed to be 30-feet away from her property. However, how it is planned, the equipment building would be about 5'8" away from her property. It is also not right for T-Mobile to use her property during construction. Because of the proximity, it may end up harming her tenants. The pole should be moved further away from her building.
- As far as she knows, Shoreline is putting in a beautiful park west of 153rd and her building. For the health and joy of the citizens, it is supposed to be a walkable trail. The T-Mobile box will take away from that joy and it will become a stumbling block. If they have to put it in, they should put it in a bigger box that does not harm individuals or neighbors or nature.

- If the Commission approves the application, she will need a variance so that she can build that close on her side of the property line.
- As far as she knows, the radio tower will produce some radio wave, and it may produce cancer for the tenants. If they use this as a reason to not occupy one of her spaces, she will be directly affected by it. The Commission must think about the health of the residential neighbors, as well
- If the Commission approves the proposal, she will probably not be able to rent the unit that is closest to it. She would need \$800 per month in compensation.

Cindy Ryu, 15215 Aurora Ave North, said she is a tenant of Ms. Kim's building (Attachment B). She said the proposal does not meet the 30-foot setback requirement because the pole is 25 feet away and the ground equipment is 6 feet away from the commercially zoned property to the east. She asked that the Commission deny the variance for the following reasons:

- Her first concern is safety. Even though a SEPA Determination of Non-Significance was issued, the pole, although legal, could still cause harm. She said she just buried her friend yesterday, who died of second hand spoke lung cancer at age 45. She fears cancer.
- The pole, with the three vector panel antennas, and the equipment building are too close to the building that she occupies every day, even according to City of Shoreline laws. She referred to Page 44, which shows how close the proposed pole would be from the building she occupies as a tenant.
- There are many other poles that are further away from the currently occupied building.
- There is a taller pole (See Page 50) just to the west of the wooden pole just like the one further north near 160th where other equipment is.
- Please locate it near the other companies' equipment and locate the equipment building near the others on Zorick's property and away from other occupied buildings because he is willing to be paid for the rental space.

Ms. Ryu clarified that Ms. Kim owns the buildings at 15215 and 15221. She said she leases space from Ms. Kim for her insurance company. There is also a tenant to the east of her and a 600 square foot space that is vacant.

COMMISSIONER DOERING LEFT THE MEETING AT 9:30 P.M. THE REMAINDER OF THE COMMISSION AGREED TO EXTEND THE MEETING TO 9:45 P.M.

Angela Brooks, Zoning Specialist for T-Mobile said that when T-Mobile first began researching the project, they did access the property from Ms. Kim's parcel, primarily because they did have an agreement from Seattle City Light. From this point forward, the proposed project will be accessed via the Seattle City Light right-of-way.

Ms. Brooks said the Interurban Trail made the project more difficult than it would have originally been. However, they feel this is still the best location of their proposed facility due to the existing regional electric utility corridor. She read a letter from Seattle City Light to justify why they are not locating on one of the taller towers to the north.

It stated that Seattle City Light denied use of its pole number PNT-153, which is the taller utility with the metal pole right behind where we are going, because there are four different circuits on it—two transmission and two distribution. Outages would be extremely difficult, if not impossible, to arrange. The use of a wood pole on the easterly side of the right-of-way is recommended as it has only one distribution circuit. She said that is how T-Mobile came to propose a location on the wood utility pole.

Ms. Brooks noted that they are only going to request a height of 70 feet, and not 80 feet as indicated in the staff report. In relation to the health requirements, Ms. Brooks explained that T-Mobile does follow the FCC mandates related to rate of frequency, etc.

In conclusion, Ms. Brooks explained that T-Mobile's proposal would match the existing utility poles that are already in the corridor. She also noted that the proposed pole would be located further from the residential property.

Commissioner Piro inquired if any aesthetic treatments would be provided for the ground structure. Ms. Brooks said the application proposes a cedar fence with landscaping all around the ground structure. Mr. Chris Arena, Project Manager, T-Mobile, added that they are required to provide a 5-foot landscaped buffer, and they are also planning to put in a six-foot high cedar fence with the landscaping. He noted that the fence for the equipment structure would be between 17 to 18 feet away from Ms. Kim's property line. The pole would be 25 feet from the property line.

Commissioner MacCully inquired if anything would prelude moving the equipment and landscaped buffers to the north of the pole as opposed to the current southern location. Ms. Brooks said this was not something that has been investigated. It would depend on whether Seattle City Light would agree to the change since T-Mobile has a lease agreement with them. Commissioner MacCully said that while Ms. Kim owns the property to the north, the ground facility, if relocated, would not go on her property, and it would not be adjacent to an existing building. Mr. Arena noted that the proposed equipment structure would be located 18 feet from Ms. Kim's property line, plus the additional space that her building is set back from the property line.

Commissioner Kuboi clarified that there is no technical reason why the equipment structure could not be relocated to the north. Commissioner Gabbert said it would be a matter of renegotiating the lease with Seattle City Light. Commissioner MacCully noted that, according to the aerial photographs, there is nothing located on the ground to the north that would preclude the relocation of the equipment structure. However, there may be something underground that would prevent the change. Mr. Arena said that T-Mobile would definitely look into the relocation of the equipment structure as recommended by the Commission, but he cautioned that the process of changing the lease with Seattle City Light could be difficult.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Commissioner Piro asked what staff foresees the future of the segment of light poles on the east side of the right-of-way would be given the beautification projects that have been considered for the Aurora Corridor. He also asked how the proposal would fit in with the overall landscaping scheme that is developing for the Interurban Trail. Mr. Cohen said Seattle City Light has shown no interest in changing these poles, either under grounding or realigning them. The Project Manager for the Interurban Trail reviewed the proposed project and found no conflicts with the Interurban Trail.

COMMISSIONER GABBERT MOVED THAT THE COMMISSION RECOMMEND THE CITY COUNCIL APPROVE BOTH THE SPECIAL USE PERMIT AND VARIANCE AS PROPOSED BASED ON THE FINDINGS IN THE STAFF REPORT. COMMISSIONER MACCULLY SECONDED THE MOTION.

Commissioner Gabbert said he believes the proposal fits within the criteria. But because he has concerns about whether not the proposal would create a health hazard, he would suggest that approval be conditioned upon moving the equipment building to the north so it is not directly adjacent to the existing building on the property to the east. Ms. Markle asked if he would like to add the words "if feasible" in case it is not possible for the building to be moved to the north. Commissioner Gabbert said that because there is open space on either side, placing a structure so close to the building is not reasonable.

COMMISSIONER GABBERT REQUESTED THAT HIS MOTION BE AMENDED TO INCLUDE A CONDITION TO MOVE THE EQUIPMENT STRUCTURE TO THE NORTH BASED ON SPECIAL USE PERMIT CRITERION 7 IF THE APPLICANT CAN OBTAIN PERMISSION FROM SEATTLE CITY LIGHT. COMMISSIONER MALONEY AGREED TO THE AMENDMENT.

THE MEETING WAS EXTENDED TO 10:00 P.M.

Commissioner MacCully said he sees no reason to condition the special use permit since the applicant has already said they will not be accessing the site through the property located at 15215, but will be using Seattle City Light right-of-way.

Ms. Markle inquired if the applicant can foresee any other problems associated with moving the building further north other than getting approval from Seattle City Light. Ms. Brooks said she couldn't foresee any additional problems.

MS. MARKLE REPHRASED THE MOTION AS FOLLOWS:

COMMISSIONER GABBERT MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE SPECIAL USE AND VARIANCE APPLICATION AS RECOMMENDED BY STAFF FOR 153RD AND AURORA AVE NORTH ON SEATTLE CITY LIGHT RIGHT-OF-WAY WITH THE CONDITION THAT THE APPLICANT MAKE A GOOD FAITH EFFORT TO MOVE THE MECHANICAL BUILDING TO THE NORTH IF PERMISSION CAN BE OBTAINED FROM SEATTLE CITY LIGHT. COMMISSIONER MACCULLY SECONDED THE MOTION.

Commissioner Piro said he sees any type of overhead wiring and structures such as the one being proposed as being a necessary evil, and he would like to see them tucked out of site and placed in unobtrusive areas as much as possible. He said the City is trying to develop a rich multi-use corridor for non-motorized uses that will shape the character of the City for generations to come. But the power lines will be a key part of the corridor. He questioned if there are opportunities beyond what is being proposed. He said he appreciates the efforts of the Commission to make the facility as unobtrusive as possible.

THE MOTION CARRIED UNANIMOUSLY. (Note: Commissioner Doering had left the meeting)

6. REPORTS OF COMMITTEES AND COMMISSIONERS

Chair Doennebrink reported that he, along with Commissioners Doering, Gabbert and McClelland, attended the last City Council Meeting to speak regarding the right-of-way map for the central area of Aurora Ave North. He noted that the Council voted to approve the right-of-way lines as recommended by the Commission. He announced that next Monday, the Council would vote on the Capital Improvement Plan.

Chair Doennebrink reported that immediately following the adoption of the Comprehensive Plan amendment, Mayor Jepson suggested that the Council direct the staff to prepare alternatives for the next steps—particularly addressing some of the concerns of the business owners and how the plan for redevelopment will move forward for the private reuse or public use of those sites. The area they asked the staff to specifically look at was the property on both sides of the Ronald Place right-of-way (the Aurora Rents property on the south and the wedge on the north). Staff will probably look at the process as opposed to specific proposed solutions. On one hand they could go with a process that is entirely private driven, such as the Top Foods development. Or they could use a proposal that is public drive, such as the North City Proposal where the City would take the lead to do the planning and then have a private developer come in.

Commissioner MacCully said that if there are possibilities for public/private partnerships, he would encourage the staff to pursue these opportunities. Mr. Stewart agreed.

7. UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

8. NEW BUSINESS

There was no new business scheduled on the agenda.

9. AGENDA FOR NEXT MEETING

Ms. Markle reminded the Commission that the August 7th meeting is scheduled as a public hearing on the King County Transfer Station Master Plan. The Commissioners have each received a memorandum outlining what the presentation will include. If there are additional items the Commission would like the staff to address, they should call Mr. Thomas with their requests.

10. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

Brian Doennebrink
Chair, Planning Commission

Lanie Curry
Clerk, Planning Commission

DRAFT

Attachment A

안녕하십니까?

저는 15215 에 위치한 building owner Soon Kim 입니다

공청 회를 열어 주셔서 감사합니다

저는 저의 건물 옆에 T-MOBILE BOX 와 TOWER 가 세워진다는 공고를 보고
놀랐습니다

저는 이계획에 동의 하지 않으며 다시 한번 재고해주시면 감사하겠습니다

- 반대
안대를 위해서 \$369.00 을 내야만 하는 줄 알고 따시를 못했는데 안들려요
- ① 첫째, 이곳은 그다지 넓지않은 장소로 몇년동안 T-MOBILE 측이 장소를 독단적으로 사용했다,
물색하기위하여 개인 PROPERTY(15215) 를 통하여 많은것을 조사해 왔다고
들었습니다 그러나 이익 보다는 보기싫은 모양으로 자연의 아름다운 모습을 가리는
삭막한 벽으로 저희 건물 옆에오랫동안 자리하면그곳을 이용 하는저희 건물
손님들에게 답답함을 주리라 생각합니다

- ② 둘째, 건축물은 경계 로 부터 30FEET 떨어져야한다고 들었습니다 (planning Agenda re
지금 표시된 곳은 ABOUT 5FEET 8 INCH 이 떨어져있습니다 P37, by shoreline
이것으로 인해 어떠한 손해가 있을지는 아무도 모릅니다 또한 공사도중 개인 Municipal Code
PROPERTY 를 무단으로 사용할수도 있습니다 저는 건물 주인으로 TENANTS
에게 사업상 피해가 가는일은 막아야하는 의무가 있습니다
비용 지겨 죽기 때문입니다.

- ③ 셋째, SHORELINE CITY 에서는 아름다운 공원을 153 가 근처의 연결된 장소에
만들것이라고 합니다. SHORELINE 시민들의 건강과 행복을 위해 만드는 공원과
산책길에 T-MOBILE BOX 는 자연을 느끼는즐거움을 빼앗아가는 걸림돌이라고
생각합니다 이웃주민들

꼭 필요한 것이라면 보다 넓은 장소에 개인과 자연에게 피해를 주지않는 장소에
세워주시면 감사하겠습니다

- 반대
④ 다음에 건물은 외관상 경계에 아깝게 위치해서 그럴수있기

JULY 17, 2003 내이기도 공통장한 기원은 주상4인.
SOON H KIM (variance)

- ⑤ 이용4후 Radio tower 에서 나오는 전파로 인하여
아이 유발하였다는 Tenants 들의 유투했다
좋은 Rent가 나가지 않아 재정적인 손실은
입을 떠미는 큰 부담은 주어야 함이다, 근처 이웃 주민의 건강도 생각
⑥ 반일 통과가 된다면 이 T-mobile Box 가 가까이 있으면
Rent가 들이게 힘들 것임이다. 매달 \$800.00 씩을 주상4인.

Attachment B



Shoreline Planning Commission

July 17, 2003

Written Comment

CINDY RYU 15215 AURORA AVE N SHORELINE, WA.

RE: ITEM 6B - SUP & VARIANCE

FOR WTF POLE THAT DOES NOT MEET THE
30-FOOT SETBACK REQUIREMENT - POLE = 25 FT

GROUND EQUIP = 6 FT FROM COMM ZONED PROP TO EAST.

I ~~ASK~~ THE PLANNING COMMISSION TO DENY
THIS VARIANCE FOR THE FOLLOWING REASONS:

(1) SAFETY - EVEN THOUGH SEPA NONSIGNIFICANCE
DET., A LEGAL ITEM (SUCH AS TOBACCO)
CAN STILL CAUSE HARM. THE POLE WITH
3 VECTOR PANEL ANTENNAS & EQUIPMENT BLDG.
ARE TOO CLOSE TO THE BUILDING I OCCUPY

EVEN BY CITY OF SHORELINE LAWS. (PG. 44 BLDG ON LEFT)
(PG. 50)

(2) THERE ARE MANY OTHER POLES FURTHER
AWAY FROM CURRENTLY OCCUPIED BUILDINGS

(3) THERE IS A TALLER POLE JUST TO THE
WEST OF THE WOODEN POLE, JUST LIKE
THE ONE FURTHER NORTH NEAR 160TH

WHERE ANOTHER EQUIPMENT (& EQUIPMENT BLDG ON PRIVATE PROPERTY)

IS. (4) LOCATE IT NEAR THE OTHER COMPANY'S EQUIPMENT
& LOCATE THE EQUIP BLD. NEAR THE OTHER ON ZORICK'S

Please leave this form with the clerk at the end of the meeting

This is a public record

PROPERTY
(AWAY FROM OTHER
OCCUPIED BLDGS.)
WHERE THE
PROPERTY OWNER
IS WILLING TO
BE PAID FOR
THE RENTAL SPACE

ATTACHMENT C

Planning Commission Staff Report,
August 7, 2003

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Possible Reconsideration of a July 17 Planning Commission Recommendation based on Translation of the Testimony from Korean to English.

DEPARTMENT: Planning and Development Services

PRESENTED BY: Paul Cohen, Planner III

I. PROPOSAL

At the July 17, 2003 the Planning Commission held a public hearing on the Special Use Permit and Variance for the construction of an uncamouflaged, 80 foot monopole with 3 panel antenna and screened ground equipment to be located at the Seattle City Light Right of Way west near 153rd and Aurora Avenue North (Attachments A and B). The Planning Commission's last motion, based on the adopted findings of fact and conclusions, was to recommend approval of the Special Use Permit and the Variance with the condition that T-Mobile move the ground equipment north of the proposed location (to an area that is not directly adjacent to buildings on the east) if permission can be obtained from Seattle City Light.

We received testimony in Korean at the public hearing from Mrs. Kim who is the property owner adjacent to the proposed ground equipment. That testimony was translated from a letter that Mrs. Kim read in Korean into the record by Cindy Ryu (Attachment C). We then heard testimony from Cindy Ryu, opposing having the ground equipment located so close to the building she was leasing/renting. A translator was hired to translate the letter and any testimony given in Korean to ensure that the record is complete (Attachment D). Cindy Ryu is a tenant in Mrs. Kim's building that would be adjacent to the proposed ground equipment.

Staff recommends that the Planning Commission review these translated materials and determine whether a motion to reconsider the Planning Commission's recommendation based on the verbatim translation of the testimony provided would be in order. As a reminder of state law, only one public hearing is permitted for a quasi judicial action – therefore no new information may be introduced into the record and no additional written or oral testimony can be allowed from the public including the applicant and parties of record.

If the Commission decides to reconsider the recommendation, those members of the Commission that were not at the July 17, 2003 meeting may participate in the discussion and vote if they have reviewed the record: staff report, audio tapes, minutes (if

available), and translated portions of the testimony; or they may decline from participating in the discussion and vote.

II. PLANNING COMMISSION ROLE AND OPTIONS to RECONSIDER

Planning Commission has the following options for their recommendation to the City Council:

First Decision:

1. Is there a motion to reconsider the July 17th Planning Commission recommendation to approve the SUP and Variance with the condition that T-Mobile move the ground equipment north of the proposed location (to an area not directly adjacent to buildings on the east) if permission can be obtained from Seattle City Light?
2. If yes, go to the Second Decision. If no, original motion stands and the July 17th recommendation will be forwarded to the City Council.

Second Decision

1. Move to recommend approval of the SUP and Variance based on the testimony provided at the July 17th public hearing including the translated materials in the August 7th staff report and the findings of fact and conclusions presented in the July 17th staff report as recommended by Staff (Original Staff Recommendation – not conditioned to move the ground mounted equipment north).
2. Move to recommend approval of the SUP and Variance based on the testimony provided at the July 17th public hearing including the translated materials in the August 7th staff report and the findings of fact and conclusions presented in the July 17th staff report as recommended by Staff and as conditioned by the Planning Commission to require that T-Mobile move the ground equipment north of the proposed location (to an area not directly adjacent to buildings on the east) if permission can be obtained from Seattle City Light (Planning Commission's 7/17 recommendation).
3. Move to recommend denial of the SUP and Variance based on the testimony provided at the July 17th public hearing including the translated materials in the August 7th staff report and the findings of fact and conclusions presented in the July 17th staff report (Note: the Commission must make findings as to why the application does not meet the SUP or Variance Criteria as a result of viewing the translated information).

III. STAFF RECOMMENDATION

Staff recommends that the Planning move to recommend to the City Council that both the proposed Special Use and Variance be approved located in the Seattle City Light Right-of-Way and enter into findings based on the information presented in this staff report that this proposal meets the decision criteria for the Variance and Special Use Permits as outlined in the Shoreline Municipal Code Section 20.30.310 and .330. Based on the testimony at the hearing and review of the translation staff also recommends reconsideration and removal of the condition because the condition would

move the ground equipment location to the north parallel to the property line and have the same potential effects on the next property without proper notice of the change.

ATTACHMENTS

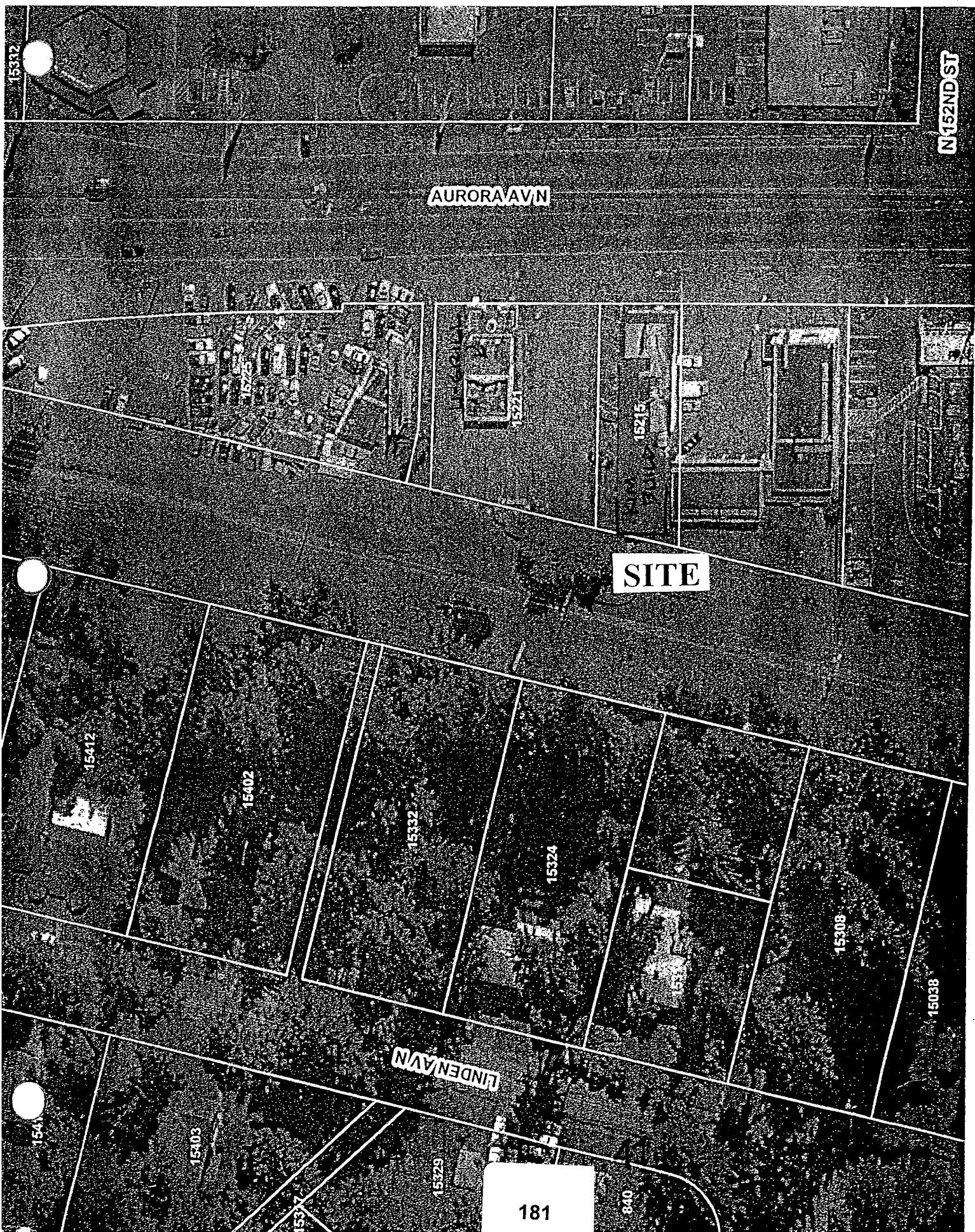
Attachment A: Site Plan and Elevation

Attachment B: Photo Survey

Attachment C: Letter to the Planning Commission in Korean

Attachment D: Translation of letter into English

ATTACHMENT A



PROPOSED (6) TMA-DD 1900 AMPLIFIERS

PROPOSED (3) EMS DR6519-02DPQ ANTENNAS,
SEE 

PROPOSED COAX CONDUIT MOUNTED
TO WOOD UTILITY POLE, SEE 

PAINT NOTE:

PAINT ANTENNAS, CONDUIT, AND
HARDWARE TO MATCH POLE.

PROPOSED POWER/TELCO CONDUIT MOUNTED
TO WOOD UTILITY POLE

PROPOSED 200AMP SERVICE METER

PROPOSED ETI CABINET

PROPOSED LANDSCAPE WALL

PROPOSED PROPOSED 500 WATT HALOGEN
SERVICE LIGHT WITH 1 HOUR TIMER

PROPOSED GPS ANTENNA, SEE 

PROPOSED ULTRASITE BTS CABINET

PROPOSED GENERATOR

PROPOSED 6'-0" CHAINLINK FENCE WITH
THREE STRANDS OF BARBED WIRE

PROPOSED 100GALLON PROPANE TANK

FINISH GRADE
EL. 8'-0" AFG

 **SOUTH ELEVATION**
2204 SCALE: 1/4"=1'-0"
1617 SCALE: 1/8"=1'-0"

06



Planning and Development Services

17544 Midvale Avenue N., Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

NOTICE OF APPLICATION AND PUBLIC HEARING FOR T-MOBILE USA WIRELESS MONOPOLE

PROJECT INFORMATION

PROPOSED ACTION: Special Use Permit and Variance Permit
PROPOSED PROJECT DESCRIPTION: The construction of an uncamouflaged, 80-foot monopole with 3 panel antenna and screened mechanical equipment at the base. A SUP is required because it is an uncamouflaged monopole. A variance is required because it does not meet setback requirements from commercial zones.
PROJECT NUMBER: 201222
PROPERTY OWNER/APPLICANT: T-Mobile USA (applicant)
LOCAL AGENT: Angela Brooks for T-Mobile USA
LOCATION: Seattle City Light R-o-W west of and near 153rd and Aurora Ave N
CURRENT ZONING: None
CURRENT COMPREHENSIVE PLAN LAND USE DESIGNATION: Public Facility
DATE OF APPLICATION: April 22,, 2003
DETERMINATION OF COMPLETENESS: May 16, 2003
SEPA DETERMINATION OF NON-SIGNIFICANCE: June 19, 2003 (Attached)
EFFECTIVE DATE OF NOTICE: June 19, 2003
END OF PUBLIC COMMENT PERIOD: July 3, 2003
OPEN RECORD HEARING DATE: July 17, 2003, 7:00 P.M.
Shoreline Center, Board Room, 18560 1ST AVE NE, Shoreline WA

PROJECT REVIEW

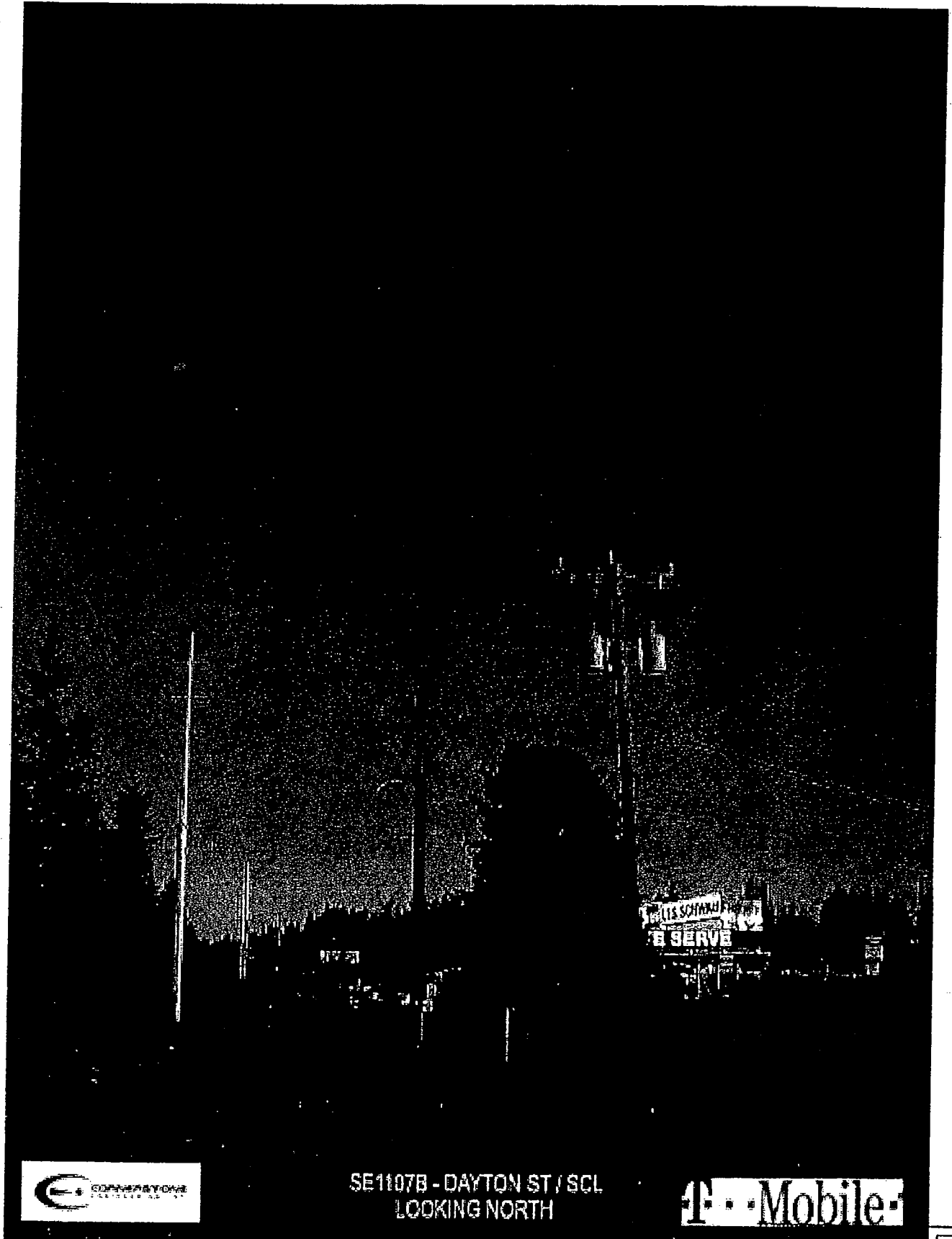
The Planning and Development Services Department has conducted an initial evaluation of the project proposal in accordance with procedures outlined in the Shoreline Municipal Code. Issuance of this Notice of Application and Public Hearing does not constitute approval of this project proposal for construction. Additional conditions based on public comments and further staff review may be required for incorporation into the project proposal. Preliminary determination of the development regulations that will be used for project review and consistency include, but are not limited to: the *Shoreline Municipal Code*, *City of Shoreline Comprehensive Plan*, *Uniform Building Code*, *Uniform Fire Code*, and *King County Surface Water Design Manual*.

A SEPA determination of Non-significance has been issued on June 19, 2003.

PUBLIC COMMENT on SUP and Variance

The Planning Commission will conduct an open record public hearing on **Thursday, July 17, 2003 at 7:00 p.m.** in the Board Room of the Shoreline Conference Center at 18560 First Ave NE, Shoreline, WA. Public testimony will be accepted during this hearing. All interested Citizens are encouraged to attend the public hearing and may provide written and/or oral testimony during the public comment period of the hearing. The Planning Commission will make a recommendation on this project proposal to the Shoreline City Council. The City Council is the final decision making authority on this project. Appeals City Council decisions shall be made to Superior Court. The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 206.546.8919 in advance for information. For TTY telephone service, call 206.546.0457. For up-to-date information on future agendas, call 206.546.2190. For questions or comments, contact the project manager, Paul Cohen, at 206.546 to Planning and Development Services, City of Shoreline, 17544 Midvale Avenue N., Shoreline, W

PROPOSED VIEW NORTH



SE1107B - DAYTON ST / SCL
LOOKING NORTH

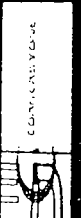
T-Mobile

PROPOSED VIEW SOUTH

PROPOSED
POLE +
GROUND
EQUIP



SE1107B - DAYTON STREET / SCL
LOOKING SOUTH



10

ATTACHMENT D

T-Tower Opposition Testimony by Soon H. Kim

How are you?

My name is Soon Kim, the owner of the building located on 15215. I thank you for this public meeting.

I was surprised at the public notice stating that the T-Mobile Box and Tower will be erected beside my building. I do not agree with this plan, and I would be grateful if you would reconsider this decision. I was not able to express my opposition to this plan because I was under the impression that I would have had to pay \$369 for the opportunity to oppose it. Today, I have come because I have been informed that I can oppose this plan.

1. First of all, the piece of property for the tower is not very big, and for several years, I have heard that T-Mobile crews have made numerous inspections of this piece of land by accessing and using my private property (15215). However, aside from profitability issues, the unappealing shape (of the tower) will become an ugly wall which will cover up nature's beauty. I feel that if this tower is left alongside my property for a prolonged period of time, it will give the customers of my building great discomfort.
2. Secondly, I have heard that any construction object must be at least 30 feet away from property lines. (Planning Agenda item P37, by Shoreline Municipal Code). Presently, the lines that have been drawn for the tower show it to be about 5 feet 8 inches from the property lines. Nobody knows what kind of losses will be incurred as a result of this construction. Also, in the midst of construction, there is a chance that construction crews will use private property without permission. As the landlord, I have the obligation to oppose anything that will bring harm to my tenants' businesses. I ask you to uphold the law.
3. Thirdly, I have heard that the Shoreline City will create a beautiful park near 153rd. This park (and trail) is being put in for the health and happiness of the citizens of Shoreline. The T-Mobile Box will become a stumbling block (hindrance) that will take away from the joy that people receive from nature. If this T-mobile Tower is truly necessary, I would appreciate it if you would relocate it to a wider area where it will not bring any harm to individuals, surrounding residents, or nature.
4. If this proposal is passed, I ask that you give me the same opportunity to receive a variance to build something right next to property lines the next time I construct a new building.
5. If construction is completed, you must take full responsibility of any claims made by the tenants of having developed cancer from the radio tower emissions. You must also take responsibility for any financial loss incurred as a result of the tower. You must also take into consideration the health of the surrounding residents of that area.
6. If this proposal is passed, it will be difficult for me to lease out my building space closest to the T-Mobile Box. In which case, please give me \$800 a month in compensation.

July 17, 2003
Soon H. Kim

ATTACHMENT D

Draft Planning Commission Minutes,
August 7, 2003

CITY OF SHORELINE**SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING**August 7, 2003
6:30 P.M.Shoreline Conference Center
Board Room**PRESENT**

Chair Doennebrink
Vice Chair Harris
Commissioner Gabbert
Commissioner Kuboi
Commissioner Sands
Commissioner McClelland
Commissioner Doering
Commissioner MacCully

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Jeff Thomas, Planner III, Planning & Development Services
Paul Cohen, Planner III, Planning & Development Services
Lanie Curry, Planning Commission Clerk

ABSENT

Commissioner Piro

1. CALL TO ORDER

Chair Doennebrink, who presided, called the regular meeting to order at 6:30 p.m.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Doennebrink, Commissioners Doering, Kuboi, MacCully, Sands, Piro and McClelland. Commissioner Piro was excused, and Vice Chair Harris arrived at 6:53 p.m.

3. APPROVAL OF AGENDA

COMMISSIONER GABBERT MOVED TO APPROVE THE AGENDA AS PROPOSED.
COMMISSIONER MALONEY SECONDED THE MOTION. THE MOTION CARRIED
UNANIMOUSLY.

4. APPROVAL OF MINUTES

There were no minutes available for approval.

5. GENERAL PUBLIC COMMENT

There was no one in the audience who desired to address the Commission during this portion of the meeting.

6. PUBLIC HEARINGS

6a. Reconsideration of a Special Use Permit and Variance for the Construction of an Uncamouflaged, 80-foot Monopole with 3 Panel Antenna and Screened Mechanical Equipment to be Located at the Seattle City light Right-of-Way near 153rd and Aurora Avenue North

Mr. Stewart recalled that this is a quasi-judicial matter, so ex parte communications are not allowed. He also recalled that, at the Commission's last meeting, they conducted a public hearing and received a lot of testimony and evidence, including a letter and testimony from Soon Kim in Korean. Staff felt it would be appropriate to provide the Commissioners with an interpretation of her letter and comments to make sure they are fully aware of the information that was presented and to make the record complete.

Secondly, Mr. Stewart said that staff has further analyzed the proposal and the complete record, recognizing that they cannot interject any new or additional information outside of the record. He said staff particularly analyzed the Commission's recommendation to move the equipment facility to the north, and they believe there may be an issue because the proposal that was advertised only showed the equipment building to the south. If the owner of the property to the north had known that the proposal would have the building at the north side, there might have been objections.

Mr. Stewart said staff has brought the issue back to the Commission for reconsideration. The general rule is that any body, at their next regularly scheduled meeting, can reconsider an action that they took at their previous meeting. But this would require a Commissioner who was on the prevailing side to make a motion to reconsider. If a motion were approved to reconsider, the Commission would begin their deliberations at the point before they took the vote on the motion.

Mr. Stewart said staff is recommending that the Commission move approval of both the special use permit and variance at the originally proposed location on the Seattle City Light right-of-way rather than moving the equipment facility to the north.

COMMISSIONER MACCULLY MOVED THAT THE COMMISSION RECONSIDER THEIR RECOMMENDATION TO APPROVE THE SPECIAL USE PERMIT AND VARIANCE WITH CONDITIONS AS OUTLINED BY THE STAFF.

Commissioner McClelland recalled that the Commission was instructed that only those Commissioners who were present when the original recommendation was made could participate in a motion to reconsider. Mr. Stewart said that unless the absent Commissioners fully reviewed the record and testimony from the public hearing, they would not be allowed to participate in the reconsideration. Commissioner McClelland noted that she did not participate in the first recommendation, and neither did Commissioner Sands or Commissioner Doering. Therefore, only four of the Commissioners would be allowed to participate.

COMMISSIONER GABBERT SECONDED THE MOTION.

Commissioner MacCully inquired if the four remaining Commissioners who could participate in reconsideration would constitute a quorum. Mr. Stewart suggested that since there was not a quorum available to reconsider the issue, the Commission's discussion on the issue should be continued until later in the meeting when there may be a quorum available. The Commission agreed to place this discussion after Item 6b on the agenda.

6b. Continued Type L Legislative Public Hearing from June 19, 2003, regarding the King County First Northeast Transfer Station Master Plan

Chair Doennebrink reviewed the rules and procedures for the public hearing, and then opened the public hearing.

Jeff Thomas suggested that because this item was tentatively scheduled to begin at about 7:20 p.m. some members of the public might come in a little later. These people should be provided an opportunity to speak.

Mr. Thomas said the discussion that was prepared by King County staff follows up on many of the items of discussion from the June 19th hearing. He referred to an e-mail the Commissioners should have received, which included two attachments at the request of individual Commissioners. He said the first attachment was a copy of the slide presentation that King County would be providing to the Commission. He reminded the Commission that at the close of the June 19th meeting staff asked the Commissioners to send follow up questions to them so that they could be forwarded to King County for a response. The second attachment is King County's response to each question.

Mr. Thomas said a number of individuals from King County were present to provide additional information about the project and answer the Commission's questions. He turned the time over to Mr. Kevin Kiernan from the King County Solid Waste Division who would provide the presentation regarding the project.

Kevin Kiernan said he is the Engineering Services Manager for the King County Solid Waste Division. He referred to the packet of information provided by King County, which was provided to aid the Commission in their deliberation of the issue.

11. AGENDA FOR SEPTEMBER 4, 2003

Mr. Stewart advised that Anna Kolousek and Ms. Markle are teaming up to work on the Comprehensive Plan updates. In Ms. Markle's absence, Ms. Kolousek will be the lead project manager. However, she will be out on leave, also. Therefore, the project will be lead mostly by the consultant. He advised that the City just recently signed a contract with Berryman Henigar, who will be the lead consultants for the project. He advised that Andrea Spencer would be filling in for Ms. Markle in her absence.

Commissioner McClelland noted that four Commissioners attended the City Council's second discussion regarding the right-of-way, including herself. She said she wrote a letter to the City Council that was quoted in the newspaper. She said it meant a lot to the City Council for the Commissioners to attend the meeting, provide comments, and show support for the Commission's recommendation. She said it is important that this same thing occur when future Commission recommendations come before the City Council.

Ms. Curry asked that all the Commissioners who are interested in attending the APA Conference contact her as soon as possible.

6. PUBLIC HEARINGS (Continued from earlier in the agenda)

6a. Reconsideration of a Special Use Permit and Variance for the Construction of an Uncamouflaged, 80-foot Monopole with 3 Panel Antenna and Screened Mechanical Equipment to be Located at the Seattle City light Right -of-Way near 153rd and Aurora Avenue North

Vice Chair Harris, Commissioner Doering, Commissioner McClelland and Commissioner Sands excused themselves from participating in the reconsideration because they were not present at the time the previous recommendation was voted upon. Only Chair Doennebrink, Commissioner Gabbert, Commissioner MacCully and Commissioner Kuboi were present to consider the staff's request to reconsider their previous decision.

Mr. Stewart said he concluded that there is no further action the Commission can take on this item because they do not have a quorum of Commissioners present. Rather than staff's original request that the Commission reconsider their recommendation, Mr. Stewart informed the Commission that staff would forward a recommendation to the City Council that contains the Commission's previous vote, as well as staff's rationale about why they do not agree with the Planning Commission recommendation. While he is very reluctant to do this, the City has a target timeline to process the applicant's request in 120 days. Because this item is scheduled to go before the City Council the first or second week of September, the staff report is due next week.

Commissioner Gabbert said that, although there is not a quorum present, the Commissioners who are present could take a vote just to show their support for the staff's recommendation.

Commissioner MacCully said he spent multiple telephone conversations with Ms. Markle, speaking specifically about this agenda item. He had hoped to talk to Mr. Cohen, but he was on vacation. He said he talked with Ms. Markle about another possible alternative. While they would still have to republish the hearing in order to accommodate another alternative, Ms. Markle advised that this process could occur in about 30 days. He said there is a location for the pole and equipment structure that would be more than 30 feet from every adjacent property owner. This location is just on the other side of the proposed Interurban Trail. He said he would like to find a solution that would work, not only for the applicant, but also for the public who expressed numerous concerns about how close this particular development was to the building they occupy.

Mr. Stewart said this might have been an appropriate topic for discussion on reconsideration. But he does not see any way they can procedurally accomplish that, given the rights of the applicant to move forward without recommendation of denial and reapplication. Because of the quasi-judicial nature of the issue, the Commission is required to provide fairness to all parties.

Again, Commissioner Gabbert felt the Commission should make a motion to show their support for the staff's recommendation even though a quorum was not available.

Ms. Curry reminded the Commission that the following motion was on the floor when the issue was postponed to the end of the meeting.

COMMISSIONER MACCULLY MOVED THAT THE COMMISSION RECONSIDER THEIR RECOMMENDATION TO APPROVE THE SPECIAL USE PERMIT AND VARIANCE WITH CONDITIONS AS OUTLINED BY THE STAFF. COMMISSIONER GABBERT SECONDED THE MOTION.

Mr. Stewart said there is a law called "The Doctrine of Necessity" for situations where there is no reasonable alternative to taking an action. The Commission could proceed under that law and forward their recommendation as a supplemental recommendation.

Commissioner Gabbert said his only recommendation is that, if at all possible, staff should work out a reasonable solution to alleviate some of the impact created by the project so that no variance would be necessary.

Commissioner Kuboi said he did not have the opportunity to discuss the issue with staff prior to the meeting. He said he is not sure he understands the issues related to time constraints. Mr. Stewart explained that the Planning Commission could move to reconsider any action that it takes at its next regularly scheduled meeting. In order to do that, it must be moved by a member of the prevailing side. If the vote to reconsider passes, then the matter is once again before the Commission as if they had never voted previously. The Commission is then free to take whatever action they would have taken at that point in the previous meeting. The problem they are facing is that no quorum is available to take this action. If a quorum were available and the Commission voted to reconsider, Commissioner Kuboi inquired if the only action they could take would be to put the equipment shed back to where it was originally going to be because they failed the noticing requirement.

Mr. Stewart said the staff requested the motion to reconsider for two purposes. The first was to include a translation of the letter that was provided by Ms. Kim to make sure that the Commission had an accurate translation. The second was that, upon further analysis, the staff considered whether there might be the potential of a neighbor or a property owner on the north having an objection to the change that was recommended by the Commission. He recalled that the Commission's recommendation was to move the building to the north, if feasible. When staff looked at that condition, it occurred to them that, if a property owner on the north didn't understand that was part of the proposal, they could have been happy with the proposal. But if the building was moved to the north, they could be very unhappy. He noted that the decision to move the building to the north did not occur until after the close of the hearing. Staff's recommendation is to go with the original location of the building.

Commissioner Kuboi said that if a quorum had been available, they probably would have elected to include the translation and change their decision to put the equipment shed where it originally was. Mr. Stewart said that Commissioner MacCully's suggestion could also have been considered as an alternative. However, readvertisement and another public hearing would have been required. This could only be done with the approval of the applicant.

Mr. Stewart explained that the public record on this item was closed, the debate had occurred, the discussion had been finalized, and the decision was then forwarded. If additional information comes in that is not part of the record (i.e. a Commissioner wants to explain further as to why they did or did not make a decision or a member of the public wants to submit a new letter of information) it could be construed as a violation of the appearance of fairness doctrine.

Commissioner MacCully said the reason the Commission is being asked to reconsideration their recommendation is that staff believes the Commission's original recommendation was not legal because of notification requirements.

Commissioner Gabbert inquired why the pole and equipment facility must have a 30-foot setback if the proposed project is located in a commercially developed area with zero setbacks between buildings. Mr. Stewart said the variance request was necessary because a 30-foot setback is required for monopoles, even in commercial areas. Commissioner MacCully noted that staff previously pointed out that the subject property is not zoned. Mr. Stewart clarified that this property does not have a zoning district assigned to it, but the City does have a zoning classification for rights-of-way.

THE MOTION CARRIED 4-0. (It was again noted that because there was not a quorum present, the motion was not considered an official Commission action.)

Commissioner Gabbert noted that the action to reconsider and also to support the staff's recommendation was wrapped into one motion. However, he said he could make another motion so that the Commission's intent is clear.

COMMISSIONER GABBERT MOVED THAT THE COMMISSION ACCEPT THE RECOMMENDATION OF THE STAFF TO PLACE THE BUILDING AS IDENTIFIED IN THE ORIGINAL PROPOSAL.

Commissioner Kuboi emphasized that this is not the outcome the Commission wanted, but the Commission is being forced into a corner because of a technicality. He said he is not voting for something the Commission wouldn't have voted for otherwise. He can accept the fact that they are being pigeonholed because of a procedural issue, but he is not going to change his vote just because of that. He noted that there are apparently two sites, the north one and the one across the area where the Interurban Trail is thought to be going, that appear to be workable. He said that, from a public perspective, if the Commission votes to recommend approval of the original location, it is going to look like it was done for the sake of expediency. While he understands the staff's position, he does not want to vote in support of their position when that is not the decision the Commission came to.

THE MOTION FAILED FOR LACK OF A SECOND.

12. ADJOURNMENT

The meeting was adjourned at 9:35 p.m.

Brian Doennebrink
Chair, Planning Commission

Lanie Curry
Clerk, Planning Commission

ATTACHMENT E

Ordinance No 336 with Findings and Determination

ORDINANCE NO. 336

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
APPROVING A SPECIAL USE PERMIT AND VARIANCE PERMIT FOR
THE PURPOSE OF CONSTRUCTING A WIRELESS
TELECOMMUNICATIONS FACILITY LOCATED IN THE SEATTLE CITY
LIGHT RIGHT-OF-WAY NEAR 153rd AND AURORA AVENUE NORTH.**

WHEREAS, certain property, located in the Seattle City Light R-O-W, is designated on the Zoning Map as Unclassified Right-of-Way, and on the Comprehensive Plan Map as Unclassified Right-of-Way; and

WHEREAS, certain property, located in the Seattle City Light R-O-W, is identified in the 1998 Comprehensive Plan as Public Facilities; and

WHEREAS, the uses of certain property, located in the Seattle City Light R-O-W, is for uncamouflaged, wireless telecommunications facility requires approval of a Special Use Permit and Variance Permit; and

WHEREAS, applicants, on property located in the Seattle City Light R-O-W have filed an application for Special Use Permit and Variance Permit for the construction of a wireless telecommunications facility; and

WHEREAS, on July 17, 2003, a public hearing on the application for Special Use Permit and Variance Permit was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on July 17, 2003, the Planning Commission recommended approval of the Special Use Permit and Variance Permit and entered findings of fact and a conclusion based thereon in support of that recommendation; and

WHEREAS, upon consideration of the application the City Council has determined that the Special Use Permit and Variance Permit application for the property located in the Seattle City Light R-O-W is consistent with the Comprehensive Plan, Shoreline Municipal Code, and appropriate for this site;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO
ORDAIN AS FOLLOWS:**

Section 1. Findings. The Planning Commission Findings and Recommendation on File No. 201222, as set forth by the record and as attached hereto as Exhibit 1, are hereby adopted.

Section 2. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance, is declared invalid, then the remainder of this Agreement, or the application of such provision to other persons or circumstances, shall not be affected.

Section 3. Effective Date. This ordinance shall go into effect five days after passage, and publication of the title as a summary of this ordinance.

PASSED BY THE CITY COUNCIL ON September 8, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: September 11, 2003
Effective Date: September 16, 2003

**Finding and Determination
Of the City of Shoreline Planning Commission**

T-Mobile WTF, File #201222

Ordinance 336

Summary-

After reviewing and discussing the SUP/Variance application on July 17, 2003 the Shoreline Planning Commission did find and determine that the application to locate a wireless telecommunication facility in the Seattle City Light Right-of-Way was in compliance with City codes and not detrimental to the health safety and welfare of the City of Shoreline, and therefore recommended:

APPROVAL OF THE SPECIAL USE AND VARIANCE APPLICATION AS RECOMMENDED BY STAFF FOR 153RD AND AURORA AVENUE NORTH ON SEATTLE CITY LIGHT RIGHT-OF-WAY WITH THE CONDITION THAT THE APPLICANT MAKE A GOOD FAITH EFFORT TO MOVE THE MECHANICAL BUILDING TO THE NORTH.

I. Findings of Fact

1. Project Description

Action: This Special Use Permit (SUP), a Quasi Judicial or "Type C Action", before the Planning Commission is a request to replace an existing 40-foot utility pole with an uncamouflaged, 80-foot pole with 3 vector panel antennas in the Seattle City Light Right-of-Way. The location is approximately parallel with 153rd and Aurora Ave North. In addition, the proposal includes ground-mounted equipment located at the base of the pole. A SUP is required whenever a wireless telecommunications facility (WTF) monopole is proposed without camouflage or co-location. In addition, a Zoning Variance is required because the proposed WTF pole does not meet the 30-foot setback requirement from commercial zones. The pole is 25 feet and the ground equipment is 6 feet from commercial zoned property to the east. See Planning Commission Staff Report Attachment A for the applicant's more detailed proposal.

Type C action (SUP) is reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval, approval with modifications or denial is developed. This recommendation is forwarded to the City Council, the final decision making authority. The Variance is a Type B or administrative decision, however the variance review has been consolidated with the SUP, which elevates the entire process to a quasi-judicial decision.

The subject site is located in the Seattle City Light R-o-W parallel to approximately 153rd and Aurora Ave North. Currently, the R-o-W is used for two lines of transmission poles. In the near future, the R-o-W will be used for the Interurban Trail. The project site is located in the Westminster Triangle Neighborhood. This portion of the R-o-W runs along the east side of the Westminster Triangle Neighborhood and the back side of commercial property along Aurora Ave North. This section of the Seattle City Light R-o-W is designated as "unclassified right-of-way" by the City's Development Code.

2. Procedural History

2.1 Neighborhood Meeting Date: April 9, 2003

2.2 Application Date: April 22, 2003

2.3 Complete Application Date: May 16, 2003

2.4 Notice of Application and Public Hearing Date: June 19, 2003

2.5 Public Hearing July 17, 2003

2.6 Planning Commission Recommendation, July 17, 2003

2.7 Move for Reconsideration Failed (lack of a quorum).

3. Public Comment

3.1 No neighbors attended the neighborhood meeting.

3.2 The City did not receive any public comment letters regarding this proposed wireless telecommunications facility.

3.3 At the Public Hearing Soon Kim testified in opposition in Korean (see August 7, 2003 Planning Commission Staff Report Attachment C) with translation by Cindy Ryu (see Draft Planning Commission Minutes of July 17, 2003, pp17-18). Ms. Kim presented a letter written in Korean that was translated by the City of Shoreline into English and provided to the Planning Commission at their meeting August 7, 2003 (see August 7, 2003 Staff Report Attachment D).

3.4 At the Public Hearing Cindy Ryu testified in opposition (see July 7, 2003 Draft Planning Commission Minutes p 18) and provided a written comment (July 7, 2003 Draft Minutes, Attachment B)

4. SEPA - SEPA review is required for this application under the City's substantial authority established in SMC 20.30.490. The SEPA Determination of Non-Significance was issued on June 19, 2003. No appeals of the SEPA determination were made.

5. Consistency -The application has been evaluated and found to be consistent with the nine Special Use criteria listed in the Shoreline Municipal Code Section 20.30.330. and was consistent with the 11 Variance criteria listed in the Shoreline Municipal Code 20.30.310.

ANALYSIS OF SPECIAL USE CRITERIA

Section 20.30.330.B of the Shoreline Municipal Code outlines the criteria by which Special Use Permit applications are reviewed. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. The City shall grant a Special Use Permit, only if the applicant demonstrates that it meets each of the following criteria. See Attachment G for the applicant's response to criteria.

Criterion 1: The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.

The WTF is designed to provide better cell phone coverage for Shoreline residents. T-Mobile USA is not a public utility. See Planning Commission Staff Report July 17, 2003 Attachment H for applicant's coverage needs.

The special use meets criterion 1.

Criterion 2: The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.

A WTF monopole is comparable to a utility pole, which is permitted without height limit or design standards. The Seattle City Light R-o-W and Aurora Ave North commercial district have various utility poles greater than 100 feet in height. See Planning Commission Staff Report July 17, 2003 Attachment B - Photo Survey.

The special use meets criterion 2.

Criterion 3: The special use will not materially endanger the health, safety and welfare of the community.

The Food and Drug Administration (FDA) and the Federal Communication Commission (FCC) report that, based on current health studies, the amount of power to be used and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. The Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions."

If approved, the City will require a building permit to construct the WTF. The City will review the monopole for and equipment for structural safety.

The special use meets criterion 3

Criterion 4: The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.

It is unclear whether the WTF is a public necessity much like the telephone companies. The proposed location does not appear to create an over-concentration of wireless telecommunication facilities (WTF). The City has not defined over-concentration.

The special use meets criterion 4.

Criterion 5: The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

The special use will not cause any increased pedestrian or vehicular traffic in the neighborhood except the infrequent service vehicle after construction.

The special use meets criterion 5.

Criterion 6: The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.

The need for public facilities is not increased; adequate infrastructure exists for the site.

The special use meets criterion 6.

Criterion 7: The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.

The proposed antenna monopole will be in a R-o-W with other utility poles. Utility poles and WTFs are common in the neighboring commercial property. The proposed pole replaces an existing pole with the same distance from the neighboring residential area and will not discourage or hinder development or use in the Westminster Triangle Neighborhood. All other nearby property is currently fully developed.

The special use meets criterion 7.

Criterion 8: The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. The location of monopoles to meet demands and provide coverage and to be aesthetically compatible can be difficult considering the amount of residential neighborhoods in Shoreline. It is appropriate when these WTFs can locate in existing utility corridors with similar structures.

The special use meets criterion 8.

Criterion 9: The special use is not in conflict with the standards of the critical areas overlay.

The site of the proposed wireless monopole and ground-mounted equipment is not in any known critical area.

The special use meets criterion 9.

ANALYSIS OF VARIANCE CRITERIA

The Shoreline Municipal Code specifies the decision for a Variance Permit in section 20.30.310. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. See Attachment I for the applicant's response to criteria.

Criterion 1: The variance is necessary because of the unique size, shape, topography, or location of the subject property;

By Shoreline Municipal Code, the facility must be 30 feet from any commercially zoned property. The property is 100 feet wide, which might accommodate the required setbacks. However, the future Interurban Trail alignment has forced the WTF proposal to not meet setbacks on any alternative location in the R-o-W. The replacement of the existing pole allows the new pole to carry power lines and is closer to the commercial area but further from the residential area.

The variance meets criterion #1.

Criterion 2: The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

The strict enforcement of setback provisions creates an unnecessary hardship to the property owner to locate other utility facilities because of the R-o-W dimension and location of the Interurban Trail.

The variance meets criterion #2.

Criterion 3: The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

The subject property has no zoning therefore it cannot be compared to other properties in the vicinity.

The variance meets criterion #3.

Criterion 4: The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;

The need for the variance is not the result of deliberate actions of a past property owner but because of the City's use of the R-o-W for the Interurban Trail.

The variance meets criterion #4.

Criterion 5: The variance is compatible with the Comprehensive Plan;

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. On balance, the location of the proposed monopole in a utility corridor without zoning and adequately setback from residences is consistent with the different Comprehensive Plan policies.

The variance meets criterion #5.

Criterion 6: The variance does not create a health and safety hazard;

The City researched health and safety bulletins and a guide to transmitting antenna emission safety from the Food and Drug Administration (FDA) and the Federal Communication Commission (FCC). These agencies concluded, based on current health studies, the amount of power to be used, and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. Further, in the Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions".

The variance meets criterion #6.

Criterion 7: The granting of the variance will not be materially detrimental to the public welfare or injurious to:

a. the property or improvements in the vicinity, or

The development will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity because the WTF is within a utility corridor and apart from the Interurban Trail.

b. the zone in which the subject property is located;

The site and property is "unclassified right-of-way" and the proposed use is consistent with uses in the right-of-way.

The variance meets criterion #7.

Criterion 8: The variance does not relieve an applicant from:

a. any of the procedural or administrative provisions of this title, or

The proposed variance does not relieve the applicant from procedural or administrative provisions of this title because the variance procedure has consolidated the SUP procedure.

b. any standard or provision that specifically states that no variance from such standard or provision is permitted, or

Setback standards may be varied through the zoning variance process (SMC 20.30.310).

c. use or building restrictions, or

The use can be approved through a SUP and must meet uniform building code requirements through a required building permit.

d. any provisions of Critical Areas Overlay District requirements, except for the required buffer widths;

No critical areas are located on the subject property.

The variance meets criterion #8.

Criterion 9: The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

No easements or covenants are recorded for this site adjacent to or regarding setbacks.

The variance meets criterion #9.

Criterion 10: The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

An uncamouflaged WTF is not permitted outright in the City but may be allowed through the SUP process.

The variance meets criterion #10.

Criterion 11: The variance is the minimum necessary to grant relief to the applicant.

The variance request is the minimum dimension needed to provide a site for the ground equipment and antenna pole because of the other setbacks needed from a commercial development.

The variance meets criterion #11.

II. Conclusions

The applicant has proposed a WTF that meets their needs and the criteria for both the SUP and Variance. They could improve the proposal by locating the mechanical building to the north. Because of Seattle City Light's R-o-W narrowness, they need a variance wherever the WTF is sited. The placement closer to the commercial zone is appropriate.

III. Recommendation

Based on the Findings, the Planning Commission recommends:

APPROVAL OF THE SPECIAL USE AND VARIANCE APPLICATION AS RECOMMENDED BY STAFF FOR 153RD AND AURORA AVENUE NORTH ON SEATTLE CITY LIGHT RIGHT-OF-WAY, WITH THE CONDITION THAT THE APPLICANT MAKE A GOOD FAITH EFFORT TO MOVE THE MECHANICAL BUILDING TO THE NORTH.

City of Shoreline Planning Commission

Brian F. Doennelmit

Chairperson

8/19/03

Date

ATTACHMENT F

Ordinance No 336-A

ORDINANCE NO. 336-A

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
APPROVING A SPECIAL USE PERMIT AND VARIANCE PERMIT FOR
THE PURPOSE OF CONSTRUCTING A WIRELESS
TELECOMMUNICATIONS FACILITY LOCATED IN THE SEATTLE CITY
LIGHT RIGHT-OF-WAY NEAR 153rd AND AURORA AVENUE NORTH.**

WHEREAS, certain property, located in the Seattle City Light R-O-W, is designated on the Zoning Map as Unclassified Right-of-Way, and on the Comprehensive Plan Map as Unclassified Right-of-Way; and

WHEREAS, certain property, located in the Seattle City Light R-O-W, is identified in the 1998 Comprehensive Plan as Public Facilities; and

WHEREAS, the uses of certain property, located in the Seattle City Light R-O-W, is for uncamouflaged, wireless telecommunications facility requires approval of a Special Use Permit and Variance Permit; and

WHEREAS, applicants, on property located in the Seattle City Light R-O-W have filed an application for Special Use Permit and Variance Permit for the construction of a wireless telecommunications facility; and

WHEREAS, on July 17, 2003, a public hearing on the application for Special Use Permit and Variance Permit was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on July 17, 2003, the Planning Commission recommended approval of the Special Use Permit and Variance Permit and entered findings of fact and a conclusion based thereon in support of that recommendation; and

WHEREAS, on August 7, 2003, the Planning Commission conducted additional discussion; and

WHEREAS, upon consideration of the application the City Council has determined that the Special Use Permit and Variance Permit application for the property located in the Seattle City Light R-O-W is consistent with the Comprehensive Plan, Shoreline Municipal Code, and appropriate for this site;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO
ORDAIN AS FOLLOWS:**

Section 1. Findings. The Planning Commission Findings on File No. 201222, as set forth by the record and as attached hereto as Exhibit 1, are hereby adopted; provided, however, the City Council makes the following determination;

The Special Use Permit and Variance Permit are APPROVED.

Section 2. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance, is declared invalid, then the remainder of this Agreement, or the application of such provision to other persons or circumstances, shall not be affected.

Section 3. Effective Date. This ordinance shall go into effect five days after passage, and publication of the title as a summary of this ordinance.

PASSED BY THE CITY COUNCIL ON September 8, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: September 11, 2003
Effective Date: September 16, 2003

Finding and Determination Of the City of Shoreline Planning Commission

T-Mobile WTF, File #201222

Ordinance 336

Summary-

After reviewing and discussing the SUP/Variance application on July 17, 2003 the Shoreline Planning Commission did find and determine that the application to locate a wireless telecommunication facility in the Seattle City Light Right-of-Way was in compliance with City codes and not detrimental to the health safety and welfare of the City of Shoreline, and therefore recommended:

APPROVAL OF THE SPECIAL USE AND VARIANCE APPLICATION AS RECOMMENDED BY STAFF FOR 153RD AND AURORA AVENUE NORTH ON SEATTLE CITY LIGHT RIGHT-OF-WAY WITH THE CONDITION THAT THE APPLICANT MAKE A GOOD FAITH EFFORT TO MOVE THE MECHANICAL BUILDING TO THE NORTH.

I. Findings of Fact

1. Project Description

Action: This Special Use Permit (SUP), a Quasi Judicial or "Type C Action", before the Planning Commission is a request to replace an existing 40-foot utility pole with an uncamouflaged, 80-foot pole with 3 vector panel antennas in the Seattle City Light Right-of-Way. The location is approximately parallel with 153rd and Aurora Ave North. In addition, the proposal includes ground-mounted equipment located at the base of the pole. A SUP is required whenever a wireless telecommunications facility (WTF) monopole is proposed without camouflage or co-location. In addition, a Zoning Variance is required because the proposed WTF pole does not meet the 30-foot setback requirement from commercial zones. The pole is 25 feet and the ground equipment is 6 feet from commercial zoned property to the east. See Planning Commission Staff Report Attachment A for the applicant's more detailed proposal.

Type C action (SUP) is reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval, approval with modifications or denial is developed. This recommendation is forwarded to the City Council, the final decision making authority. The Variance is a Type B or administrative decision, however the variance review has been consolidated with the SUP, which elevates the entire process to a quasi-judicial decision.

The subject site is located in the Seattle City Light R-o-W parallel to approximately 153rd and Aurora Ave North. Currently, the R-o-W is used for two lines of transmission poles. In the near future, the R-o-W will be used for the Interurban Trail. The project site is located in the Westminster Triangle Neighborhood. This portion of the R-o-W runs along the east side of the Westminster Triangle Neighborhood and the back side of commercial property along Aurora Ave North. This section of the Seattle City Light R-o-W is designated as "unclassified right-of-way" by the City's Development Code.

2. Procedural History

2.1 Neighborhood Meeting Date: April 9, 2003

2.2 Application Date: April 22, 2003

2.3 Complete Application Date: May 16, 2003

2.4 Notice of Application and Public Hearing Date: June 19, 2003

2.5 Public Hearing July 17, 2003

2.6 Planning Commission Recommendation, July 17, 20063

2.7 Move for Reconsideration Failed (lack of a quorum).

3. Public Comment

3.1 No neighbors attended the neighborhood meeting.

3.2 The City did not receive any public comment letters regarding this proposed wireless telecommunications facility.

3.3 At the Public Hearing Soon Kim testified in opposition in Korean (see August 7, 2003 Planning Commission Staff Report Attachment C) with translation by Cindy Ryu (see Draft Planning Commission Minutes of July 17, 2003, pp17-18). Ms. Kim presented a letter written in Korean that was translated by the City of Shoreline into English and provided to the Planning Commission at their meeting August 7, 2003 (see August 7, 2003 Staff Report Attachment D).

3.4 At the Public Hearing Cindy Ryu testified in opposition (see July 7, 2003 Draft Planning Commission Minutes p 18) and provided a written comment (July 7, 2003 Draft Minutes, Attachment B)

4. SEPA - SEPA review is required for this application under the City's substantial authority established in SMC 20.30.490. The SEPA Determination of Non-Significance was issued on June 19, 2003. No appeals of the SEPA determination were made.

5. Consistency -The application has been evaluated and found to be consistent with the nine Special Use criteria listed in the Shoreline Municipal Code Section 20.30.330. and was consistent with the 11 Variance criteria listed in the Shoreline Municipal Code 20.30.310.

ANALYSIS OF SPECIAL USE CRITERIA

Section 20.30.330.B of the Shoreline Municipal Code outlines the criteria by which Special Use Permit applications are reviewed. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. The City shall grant a Special Use Permit, only if the applicant demonstrates that it meets each of the following criteria. See Attachment G for the applicant's response to criteria.

Criterion 1: The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.

The WTF is designed to provide better cell phone coverage for Shoreline residents. T-Mobile USA is not a public utility. See Planning Commission Staff Report July 17, 2003 Attachment H for applicant's coverage needs.

The special use meets criterion 1.

Criterion 2: The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.

A WTF monopole is comparable to a utility pole, which is permitted without height limit or design standards. The Seattle City Light R-o-W and Aurora Ave North commercial district have various utility poles greater than 100 feet in height. See Planning Commission Staff Report July 17, 2003 Attachment B - Photo Survey.

The special use meets criterion 2.

Criterion 3: The special use will not materially endanger the health, safety and welfare of the community.

The Food and Drug Administration (FDA) and the Federal Communication Commission (FCC) report that, based on current health studies, the amount of power to be used and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. The Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions."

If approved, the City will require a building permit to construct the WTF. The City will review the monopole for and equipment for structural safety.

The special use meets criterion 3

Criterion 4: The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.

It is unclear whether the WTF is a public necessity much like the telephone companies. The proposed location does not appear to create an over-concentration of wireless telecommunication facilities (WTF). The City has not defined over-concentration.

The special use meets criterion 4.

Criterion 5: The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

The special use will not cause any increased pedestrian or vehicular traffic in the neighborhood except the infrequent service vehicle after construction.

The special use meets criterion 5.

Criterion 6: The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.

The need for public facilities is not increased; adequate infrastructure exists for the site.

The special use meets criterion 6.

Criterion 7: The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.

The proposed antenna monopole will be in a R-o-W with other utility poles. Utility poles and WTFs are common in the neighboring commercial property. The proposed pole replaces an existing pole with the same distance from the neighboring residential area and will not discourage or hinder development or use in the Westminster Triangle Neighborhood. All other nearby property is currently fully developed.

The special use meets criterion 7.

Criterion 8: The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. The location of monopoles to meet demands and provide coverage and to be aesthetically compatible can be difficult considering the amount of residential neighborhoods in Shoreline. It is appropriate when these WTFs can locate in existing utility corridors with similar structures.

The special use meets criterion 8.

Criterion 9: The special use is not in conflict with the standards of the critical areas overlay.

The site of the proposed wireless monopole and ground-mounted equipment is not in any known critical area.

The special use meets criterion 9.

ANALYSIS OF VARIANCE CRITERIA

The Shoreline Municipal Code specifies the decision for a Variance Permit in section 20.30.310. The decision criteria are listed below, followed by the City's analysis of the applicant's compliance with each criterion. See Attachment I for the applicant's response to criteria.

Criterion 1: The variance is necessary because of the unique size, shape, topography, or location of the subject property;

By Shoreline Municipal Code, the facility must be 30 feet from any commercially zoned property. The property is 100 feet wide, which might accommodate the required setbacks. However, the future Interurban Trail alignment has forced the WTF proposal to not meet setbacks on any alternative location in the R-o-W. The replacement of the existing pole allows the new pole to carry power lines and is closer to the commercial area but further from the residential area.

The variance meets criterion #1.

Criterion 2: The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

The strict enforcement of setback provisions creates an unnecessary hardship to the property owner to locate other utility facilities because of the R-o-W dimension and location of the Interurban Trail.

The variance meets criterion #2.

Criterion 3: The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

The subject property has no zoning therefore it cannot be compared to other properties in the vicinity.

The variance meets criterion #3.

Criterion 4: The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;

The need for the variance is not the result of deliberate actions of a past property owner but because of the City's use of the R-o-W for the Interurban Trail.

The variance meets criterion #4.

Criterion 5: The variance is compatible with the Comprehensive Plan;

U4- Support the timely expansion, maintenance and replacement of utility infrastructure at designated service levels in order to match and meet expected demand for service.

U9- Encourage the design, siting construction operation and relocation or closure of all utility systems in a manner which: ...minimize and mitigate impacts on adjacent land uses, is environmentally sensitive, and is appropriate to the location and need.

U28 – Explore strategies which minimize or reduce the impacts of the telecommunication facilities and towers on the community.

The Comprehensive Plan both encourages the growth and delivery of utility systems and networks and minimizes impacts of these facilities on the community. On balance, the location of the proposed monopole in a utility corridor without zoning and adequately setback from residences is consistent with the different Comprehensive Plan policies.

The variance meets criterion #5.

Criterion 6: The variance does not create a health and safety hazard;

The City researched health and safety bulletins and a guide to transmitting antenna emission safety from the Food and Drug Administration (FDA) and the Federal Communication Commission (FCC). These agencies concluded, based on current health studies, the amount of power to be used, and the antenna distance from people that there are no health risks associated with transmission antennas of this scope. Further, in the Telecommunications Act of 1996, Section 704 states that, "No state or local government...may regulate the placement, construction and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facility comply with the Commission's regulations concerning such emissions".

The variance meets criterion #6.

Criterion 7: The granting of the variance will not be materially detrimental to the public welfare or injurious to:

a. the property or improvements in the vicinity, or

The development will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity because the WTF is within a utility corridor and apart from the Interurban Trail.

b. the zone in which the subject property is located;

The site and property is "unclassified right-of-way" and the proposed use is consistent with uses in the right-of-way.

The variance meets criterion #7.

Criterion 8: The variance does not relieve an applicant from:

a. any of the procedural or administrative provisions of this title, or

The proposed variance does not relieve the applicant from procedural or administrative provisions of this title because the variance procedure has consolidated the SUP procedure.

b. any standard or provision that specifically states that no variance from such standard or provision is permitted, or

Setback standards may be varied through the zoning variance process (SMC 20.30.310).

c. use or building restrictions, or

The use can be approved through a SUP and must meet uniform building code requirements through a required building permit.

d. any provisions of Critical Areas Overlay District requirements, except for the required buffer widths;

No critical areas are located on the subject property.

The variance meets criterion #8.

Criterion 9: The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

No easements or covenants are recorded for this site adjacent to or regarding setbacks.

The variance meets criterion #9.

Criterion 10: The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

An uncamouflaged WTF is not permitted outright in the City but may be allowed through the SUP process.

The variance meets criterion #10.

Criterion 11: The variance is the minimum necessary to grant relief to the applicant.

The variance request is the minimum dimension needed to provide a site for the ground equipment and antenna pole because of the other setbacks needed from a commercial development.

The variance meets criterion #11.

II. Conclusions

The applicant has proposed a WTF that meets their needs and the criteria for both the SUP and Variance. They could improve the proposal by locating the mechanical building to the north. Because of Seattle City Light's R-o-W narrowness, they need a variance wherever the WTF is sited. The placement closer to the commercial zone is appropriate.

III. Recommendation

Based on the Findings, the Planning Commission recommends:

APPROVAL OF THE SPECIAL USE AND VARIANCE APPLICATION AS RECOMMENDED BY STAFF FOR 153RD AND AURORA AVENUE NORTH ON SEATTLE CITY LIGHT RIGHT-OF-WAY, WITH THE CONDITION THAT THE APPLICANT MAKE A GOOD FAITH EFFORT TO MOVE THE MECHANICAL BUILDING TO THE NORTH.

City of Shoreline Planning Commission

Brian F. Doennelmit

Chairperson

8/19/03

Date