



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Kira Luke
Budget & Policy Analyst

DATE: June 4, 2019

RE: T-Mobile West LLC Franchise Agreement

Item Schedule:

Briefing: June 4, 2019

Unfinished Business: June 11, 2019

Note: Public hearing is not required

ISSUE AT-A-GLANCE

Franchise agreements provide the contractual framework regulating access to the public-right-of-way (above, below and at ground level), designates formal processes for the company and City to interact and identifies the calculation of franchise fee payments.

The proposed franchise agreement is for a term of 10 years with a year to year automatic extension upon expiration. The agreement allows T-Mobile to construct, maintain and operate telecommunication lines and associated facilities in the public-right-of-way. It explicitly does not allow cable television services, which would require a separate franchise agreement. When a franchise agreement is granted, companies must obtain public-right-of-way permits from the Engineering Division before construction may start.

T-Mobile has many open permits with the City, including a recently-approved conditional use permit for an antenna on Emery Street in District 2 (see Attachment 1). Adoption of the franchise agreement would allow the company to use existing facilities for such an antenna.

Budget Impact (See Additional Info Section)

A small positive budget impact is expected from adoption of the new franchise agreement. The company will pay the City a one-time lump-sum of \$5,000 for administrative costs and an ongoing annual franchise fee equal to 3.5% of gross receipts attributable to customers in Salt Lake City. Any elements of the conduit and associated company facilities not used to provide services generating gross receipts shall be charged \$1 per linear foot in 2005 dollars adjusted for inflation (CPI).

Goal of the briefing: Discuss with the Administration the proposed 10-year T-Mobile franchise agreements and identify any policy issues for follow up.

POLICY QUESTIONS

1. **Budget impact:** Most of the City's franchise agreements derive from a standard template, which defers the fees set to state code. According to the Administration, they've observed a trend of decreasing revenue from telecommunications franchises. The Council may wish to ask, are there other ways to



capture revenue from new technologies? This was mentioned during the FY20 annual budget; Council Members may want to ask the Administration for an update.

2. **Enforcement:** From franchise agreements to building permits, utility providers typically work through a number of City processes to ensure any installations are in compliance. The Council Office has received complaints from residents about monopoles and utility poles that did not appear to follow the designated City processes. The Council may wish to ask, would additional resources enable the Administration to more closely monitor and respond to constituent complaints of any non-complying utilities?
3. **Digital Inclusion:** The Council may wish to ask if the Administration's forthcoming Digital Inclusion Policy may have a role to inform franchise agreements like the one under consideration?

In 2016, the City created a cooperation statement with Rocky Mountain Power to affirm mutual interest in progress toward the City's sustainability goals, which in turn informed the 5-year franchise agreement with Rocky Mountain Power. The Council may also wish to ask, has a similar arrangement with internet/telecommunication providers been considered as an avenue to pursue the City's digital equity goals?

4. **Duty to Underground:** The franchise states "it is the policy of the City to have lines and cables placed underground to the greatest extent reasonably practicable" (page eight). Also, this section of the agreement specifies lines and cables are required to be underground for:
 - a. New residential subdivision areas;
 - b. The Central Business District;
 - c. Any area of the City where existing utilities are already underground; and
 - d. Whenever other utility companies are undergrounding cables and lines.

The Council may wish to discuss with the Administration what is the basis of this policy and if other geographic areas in the City (RDA project areas, Sugar House, etc.) should be added to the requirement.

5. **Ten-Year Term:** The Council may wish to ask the Administration, is a ten-year term reasonable, or is technology expected to advance in such a way that the agreement should be revisited sooner?

ADDITIONAL & BACKGROUND INFORMATION

Standard Franchise Template

The proposed franchise agreement uses the City's preferred standard template. One benefit of this approach is to help create a level playing field so no single company receives an advantage over others.

Multiple Levels of Statutes and Regulations

Franchise agreements are subject to federal, state and local laws and regulations. Staff noted the following governing laws and bodies in the proposed franchise agreement:

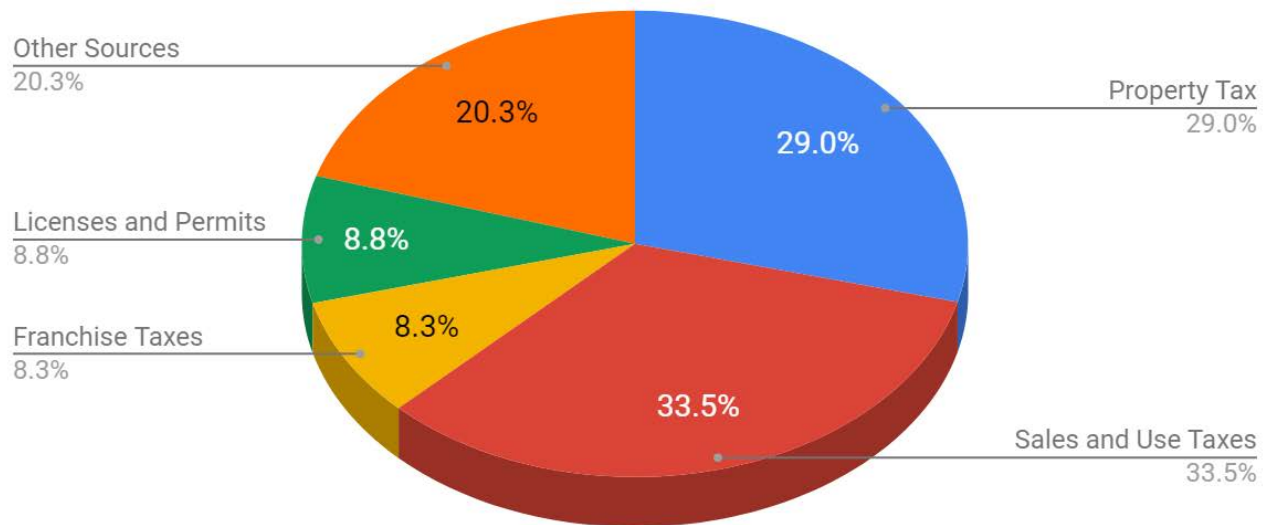
- Federal Telecommunications Act of 1996
- Federal Communication Commission
- Utah Municipal Telecommunications License Tax Act (Utah Code Title 10, Chapter 1, Part 4)
- Utah Public Service Commission
- Salt Lake City Municipal Telecommunications License Tax Ordinance (Salt Lake City Code Chapter 3.10)
- Salt Lake City Telecommunication Right of Way Permits (Salt Lake City Code Chapter 14.32, Article IV, Section 425)

Public-right-of-way and City-owned Property

The franchise agreement states a company is granted access to the City's public-right-of-way but not "any City park, recreational areas or other property owned by the City ... or facilities and structures." Use of other City-owned property is possible on a case-by-case basis for additional compensation.

Franchise Taxes and the City's General Fund

General Fund Revenue Sources



The City's General Fund has four major categories of revenue sources as shown in the adjacent graph. In FY20, approximately 8.3% of General Fund revenues came from franchise taxes. The City has dozens of franchise agreements with utility companies, cable services providers, telecommunication service providers and others.

City Offices Involved in Franchise Agreements

Multiple City offices are involved in franchise agreements. For example, the Attorney's Office drafts the agreements, the Engineering Division reviews construction proposals and issues permits, Real Estate Services coordinates correspondence and planning with the franchisee and Finance tracks, receives and budgets franchise fees revenue.

ACRONYMS

CPI – Consumer Price Index

dba – doing business as

FY – Fiscal Year

ATTACHMENTS

Attachment 1 – Planning Division Staff Report – 922 S Emery

Staff Report

PLANNING DIVISION
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Lauren Parisi, Principal Planner - (801) 535-7226 - lauren.parisi@slcgov.com

Date: March 27, 2019

Re: PLNPCM2018-00585 - Conditional Use for Utility Pole Mounted Antenna Array
PLNPCM2019-00168 - Special Exception for Antenna Utility Boxes

PROPERTY ADDRESS: 922 S. Emery Street
PARCEL ID: 15-11-157-009
MASTER PLAN: Westside Master Plan
ZONING DISTRICT: R-1-5,000 Single-Family Residential

REQUEST: Kalab Cox, representing T-Mobile, is requesting conditional use approval in order to modify an existing antenna array and replace six (6) antennas with three (3) antennas that are located on a utility pole in the public right-of-way at approximately 922 S. Emery Street zoned R-1-5,000: Single-Family Residential. The modified antenna array, including the mounting structure, will have a diameter of approximately 39 inches. Section 21A40.090.E.2.8 of Salt Lake City's Zoning Code allows antenna arrays with a diameter of 30 inches or less to be mounted on utility poles by right, but those with a larger diameter must be reviewed as a conditional use. Special exception approval is also being requested to allow existing utility boxes associated with the antenna array that exceed the dimensions for antenna electrical equipment on private property listed in Section 21A40.090.E.3.b of the Zoning Ordinance.

RECOMMENDATION: Based on the information in this staff report, planning staff recommends that the Planning Commission approve the proposed conditional use for an antenna array on an existing utility pole with a diameter greater than 30 inches and special exception for the associated utility equipment subject to the conditions listed below:

1. Any modifications to the approved plans after the issuance of a building permit must be specifically requested by the applicant and approved by the Planning Division prior to execution.
2. The applicant shall comply with all other Department/Division requirements including obtaining an agreement between T-Mobile and Salt Lake City to locate the proposed wireless facility in the public right-of-way adjacent to 922 S. Emery Street.
3. The proposed antenna array shall be painted to match the utility pole or in such a manner as to best reduce its visual impact.
4. The existing utility equipment associated with the antenna array and located on the private property at 922 S. Emery Street shall be screened with a solid fence to minimize its visual impact from the public trail.
5. The existing antenna array shall be removed within 90 days of this approval.

ATTACHMENTS:

- A. Vicinity Map
- B. Site Photographs
- C. Application Materials
- D. Zoning Standards
- E. Conditional Use Standards
- F. Special Exception Standards
- G. Public Process and Comments
- H. City Review Comments

PROJECT DESCRIPTION:

1. Conditional Use for Utility Pole Mounted Antenna Array

The applicant has requested to modify an existing antenna array and replace 6 antennas with 3 antennas total that are located on a utility pole in the public right-of-way at approximately 922 S. Emery Street zoned R-i-5,000: Single-Family Residential. The modified antenna array, including the mounting structure, will have a diameter of approximately 39 inches. Section 21A40.090.E.2.9 of Salt Lake City's Zoning Code allows antenna arrays with a diameter of 30 inches or less to be mounted on utility poles in both commercial and residential zoning districts by right, but those with a larger diameter must be reviewed as a conditional use. The utility pole will remain the same height at approximately 60 feet tall and no new ground mounted utility equipment is being installed. The antennas themselves are approximately 56.6" tall and 12.9" wide.

The existing antenna array with 6 antennas does not comply with code because it has a diameter over 30 inches (measuring 80 inches or 6 feet 8 inches) and did not receive conditional use approval. The community raised concern that this array appeared larger than the allowable 30 inches thought to be approved per the initial building permit and; therefore, Zoning Enforcement Case #HAZ2018-01633 was opened on June 1, 2018 to look into the matter. It was confirmed that the array that was constructed is larger than 30 inches in diameter (as illustrated on Sheet A-2 of the applicant's plan set) and the applicant was informed that they would need to obtain conditional use approval in order to close out the zoning enforcement case.

Because of this concern, the applicant has worked to reduce the diameter of the array in addition to the number of antennas and remote radio units (RRUs) proposed. The initial array that was submitted for conditional use approval on July 25, 2018, had 3 antennas and 3 RRUs with a diameter of 45 inches. Since then, the array has been further modified to include 3 antennas without any RRUs and a diameter of 39 inches. The applicant attempted to get the diameter down to 30 inches allowable without conditional use approval, but explained that "due to the new and ever-changing technology that goes into wireless antennas, [they] were not able to do so." Again, the existing array is 80 inches in diameter with 6 antennas.

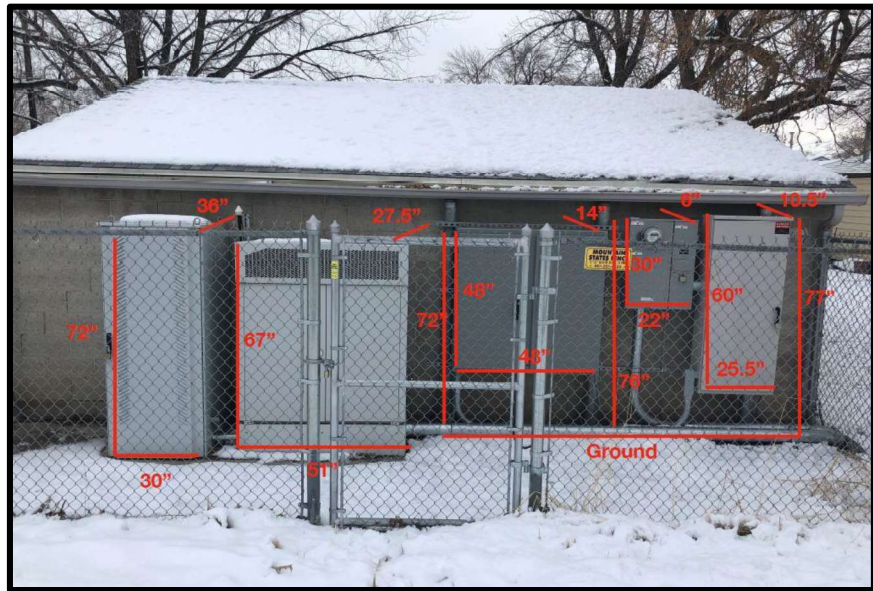
2. Special Exception for Antenna Utility Boxes on Private Property

During the review of this conditional use request, it was discovered that the existing utility equipment associated with the antenna and located in the southwest corner of the private property was also constructed to be larger than what the initial building permit approved. The Code allows utility boxes associated with wireless facilities in the side yard, rear yard or buildable area of a private property as long as the boxes do not exceed (4') in width, three feet (3') in depth, and four feet (4') in height. Anything larger must be reviewed as a special exception. Three of the existing utility boxes are approximately 6" - 2' taller and one of the boxes is approximately 3" wider than the size of boxes permitted on private property without special exception approval as seen in the image below.

Because of this, the applicant is also requesting special exception approval for these three boxes to remain without having to be downsized. The specific dimensions of the oversized boxes are as follows (the bolded measurements exceed the dimensions allowed without special exception approval):

Box 1 – 2'6" in width; 3' in depth; **6' in height**
 Box 2 – **4'3" in width**; 2' 3.5" in depth; **5'6" in height**
 Box 3 – 2' 1.5" in width; 10.5" in depth; **5' in height**

Though the equipment is located in the back corner of the private property and is not apparent from Emery Street, it is very visible from the 9-Line public trail to the south. Therefore, the applicant is proposing to screen the equipment with a solid wood fence as noted in their project description. This has also been made a condition of approval. As the fence will completely hide the equipment, it cannot be determined that the difference in size of the existing utility boxes compared to the size allowed without special exception approval has a detrimental impact on the surrounding area.



Location Context and Zoning: The subject site is located just west of 1100 West and south of 900 South in the Poplar Grove neighborhood. Parkview Elementary School and the 9-Line Trail are located just south of the site. The property at 922 S. Emery Street that's associated with this proposal is zoned R-1-5,000: Single-Family Residential where a single-family home is located. The existing electrical equipment for the antenna is located in the side yard of this property. As seen on the zoning map, most of the surrounding properties are also zoned for residential besides the larger elementary school property, which is zoned PL: Public Lands. Utility pole mounted antennas are permitted in residential zoning districts per all of the specific zoning standards listed in Attachment D of this report. All of the surrounding land uses are as follows:

North – Residential Property
South – 9-Line Trail/Parkview Elementary School
East – Residential Property
West – Vacant Lot



KEY CONSIDERATIONS:

The key considerations listed below have been identified through the analysis of the project, public input and department review comments.

Consideration i: Community Concerns

Existing Antenna Array -

Upon receiving notice of the open house for this conditional use request which took place on January 7, 2016, community members sent multiple emails expressing concern regarding the antenna array and that it was constructed much larger and had more antennas than what the initial building permit had approved (BLD2014-06707). The community also indicated that they had filed a complaint with Salt Lake City's Civil Enforcement office in January of 2017 and did not understand why it took the amount of time it did to open zoning enforcement case to look into the actual size of the array that was constructed. While it is not completely clear why an enforcement case was not opened up initially, it seems there was confusion and miscommunication across different city departments in terms of the type of structure the antenna was mounted on (monopole vs. utility pole), the standards and conditional use requirements for these different types of antenna mounting structures, and what the building permit plans had approved as opposed to what had been built. Ultimately, Zoning Enforcement Case #HAZ2018-01633 was opened on June 1, 2018 and the applicant confirmed that the antenna array was built with a diameter of 80 inches instead of 30 inches that the initial building permit approved. To rectify this, the applicants applied for this conditional approval in July of 2018 to reconstruct the antenna array to have a diameter of 39 inches instead of 80 inches and 3 antennas instead of 6.

Visual Impact —

Comments were received regarding the negative visual impact the antenna array has on its immediate surroundings and the suggestion was made to better camouflage the array/utility pole by turning it into some form of public art. However, it cannot be concluded that the proposed array with a 39-inch diameter creates more of a negative visual impact on its surroundings than an array with a 30-inch diameter, which would be permitted by right without conditional use approval or any sort of camouflaging. As a condition of approval, the antenna array will be painted to match the utility pole or in such a manner as to best reduce its visual impact from the ground. The existing utility equipment located towards the rear of the private property will also be completely screened from the g-Line Trail to the south per condition of this approval.

Environmental Impact —

The community expressed concern that radiation patterns of the antenna array could be harmful to surrounding residents as well as the nearby wetland preserve/wildlife and the g-Line Trail. Existing federal regulations limit a local government's ability to regulate wireless facilities based on potential environmental effects stating:

47 U.S.C. 332(c)(7)(B)(iu) - No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

Regarding harm to migratory birds, U.S. Fish and Wildlife Service promote collocating communication equipment on existing structures like utility poles to reduce the number of larger communication towers across the landscape. They also promote keeping tower height under 199 feet, which the existing utility pole is under at 60 feet.

(Please see Attachment G for all public comments).

February 27, 2019 Poplar Grove Community Council Meeting -

The applicant attended the February Poplar Grove Community Council meeting where similar issues were raised as noted above. A motion was made that the Poplar Grove Community Council would not support the proposal unless the size of the array was reduced to 30 inches in diameter that is permitted without conditional use approval. It appeared that the majority of attendees at the meeting were in favor of this motion.

After this meeting, the applicant did lookback into reducing the diameter of the array to 30 inches. Ultimately, he indicated that with the current technology and even with removing one of the three antennas, the diameter would still be larger than 30 inches.

Consideration 2: Compliance with Zoning and Conditional Use Standards

The proposed antenna array must comply with the City's general zoning standards for utility pole mounted antennas (Zoning Code Section 21A.40.090.E.2.8) as well all conditional use standards (Zoning Code Sections 21A.54.080 and 21A.40.090.E.90). As detailed in Attachment D, the proposal does comply with the zoning standards for utility pole mounted antennas located in a public right-of-way. Although T-Mobile does not yet have an agreement with the City to locate the array in the public right-of-way adjacent to 922 S. Emery Street, this is something that can be done during the building permit phase of the process and has been made a condition of this approval. The new antenna cannot be installed until this agreement and the building permit have been approved. Because the amount of time it will take to receive this agreement and the building permit is unknown, Planning Staff is recommending the condition that the existing antenna array be removed within 90 days of this approval in an effort to rectify the noncompliance in a relatively timely manner.

As detailed under Attachments E, the proposed antenna array also generally complies with the conditional use standards. Conditional Use Section 21A.54.080 of the Zoning Ordinance states:

A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards set forth in this section. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use shall be denied.

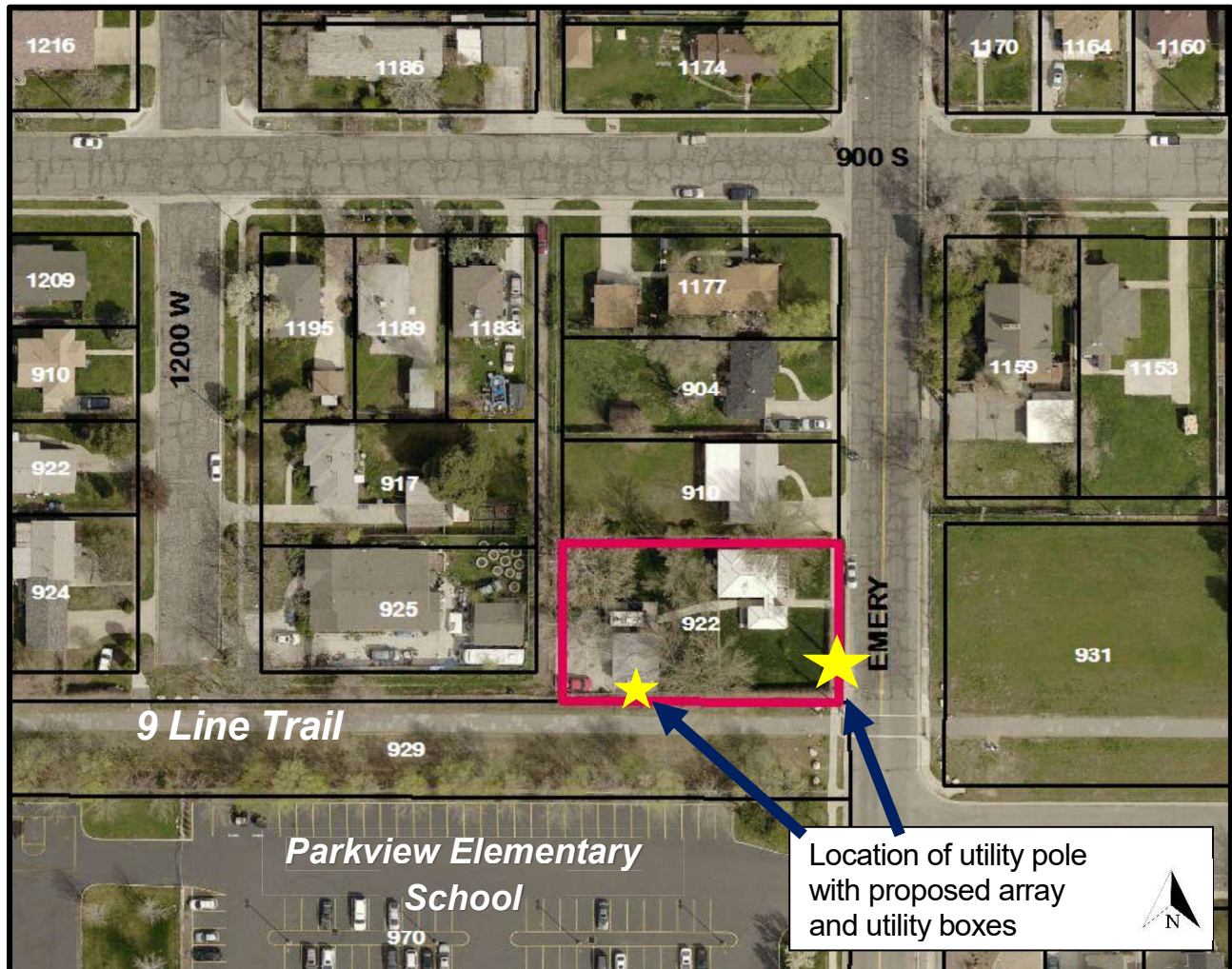
No evidence has been provided that indicates the proposed antenna array would have a detrimental impact greater than an antenna array that qualifies as a permitted use per the Zoning Ordinance (a utility pole mounted array with a diameter of 30 inches) and; therefore, Planning Staff must recommend approval of this conditional use request.

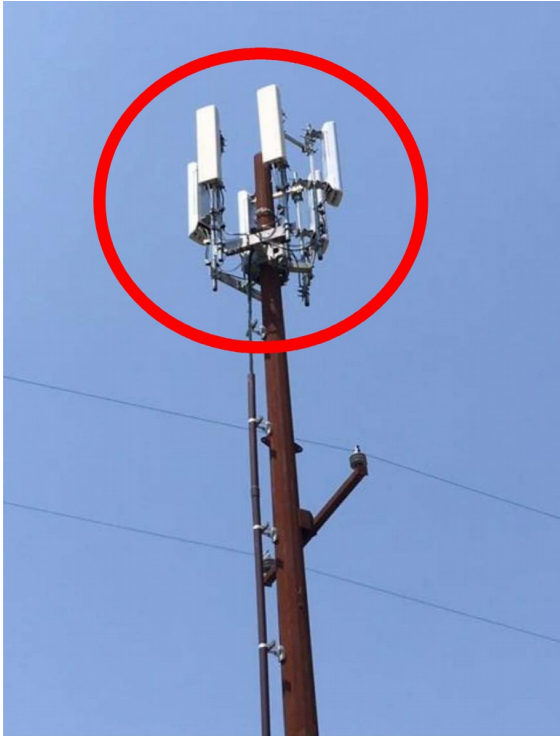
NEXT STEPS:

If approved, the applicant may proceed with the project and will be required to obtain all other permits and Department/Division approvals required for the modification of the antenna array in the public right-of-way as proposed. The applicant will also have 90 days to remove the existing antenna array.

If denied, the applicant must remove the existing antenna array and three oversized electrical boxes. Planning Staff will notify the City's Civil Enforcement Division to move forward with the Housing and Zoning Enforcement Case. It should be noted that the applicant could also apply for a building permit to install an antenna array with a diameter to 30 inches or less as well as smaller electrical boxes that meet allotted size requirements, which would not require conditional use or special exception approval.

ATTACHMENT A: VICINITY MAP





Views of existing antenna array that measures 80” in diameter – to be reduced to 39”



View of the house at 922 S. Emery Street



Open lot across Emery Street to the east of the utility pole



Elementary school lot to the south of the utility pole



View of the existing antenna electrical equipment towards the rear of the private property looking northeast from the g-Line Trail



Alternative view of the existing antenna electrical equipment towards the rear of the private property looking northwest from the g-Line Trail

ATTACHMENT C: APPLICATION MATERIALS

CUP for Salt Lake City -
922 South Emery Ave, SLC -

The purpose of this CUP application for T-Mobile cell site at 922 South Emery Ave, SLC- is to modify the loading and equipment on this telecommunication tower, which is a PacifiCorp utility pole. We are decreasing the number of Antennas from (6) to (3).

Further, there won't be any RRU'S or TMA's installed on this tower-in order to further decrease the loading.

This will decrease the diameter of T-Mobile's Antenna Array from 80" to 39". Unfortunately, due to the new and ever-changing technology that goes into wireless antennas, we are not able to get this to 30".

The height of the pole will not change, and there will be no foundational, or electrical change.

Thank you,

- Kalab Cox

T-Mobile
121 West Election Road
Suite 330
Draper, UT 84020

Written Description of Proposal:

The purpose of this proposal is to ask for an exception to the existing ground based electrical equipment for the cell tower located at 922 S Emery Street, SLC.

When this equipment was installed there were two boxes that did not meet all of the (4') width, (3') depth, and (4') height dimensions required for a permitted use. There have been some complaints from members of the public because this equipment is visible from a walking trail. It is our intention to go through the exception process in order to appease the public while maintaining T-Mobile's ability to provide cell service to the surrounding neighborhood.

We are requesting to screen this equipment with new wood fencing in order to conceal this electrical equipment. The chain link fence that surrounds T-Mobile's ground-based equipment will be removed and replaced with a wood fence that will completely screen the electrical equipment.

Replacing this electrical equipment would be costly and difficult due to the complexity of the electrical configurations and equipment.

Please see attached measurements showing existing equipment dimensions and.

Location Analysis:

Alternative locations for this ground-based equipment are not reasonably feasible because T-Mobile has a Lease with a private landlord and the location picked for this equipment was carefully chosen according to where landlord preferred. This was done in order to limit our presence within their private property and yard use. Also, this space was specifically chosen to limit the visibility of the equipment from the public road and sidewalk, while remaining close enough to the cell tower to remain practical.

Additionally, alternative locations are technically unfeasible because there are several underground conduit lines installed from the existing ground-based equipment that run to the cell phone tower, fiber optic telco pedestal, and electrical transformer. The expense and technical logistics required to move all of this infrastructure make an alternative location technically unfeasible.

General Standards Requirements:

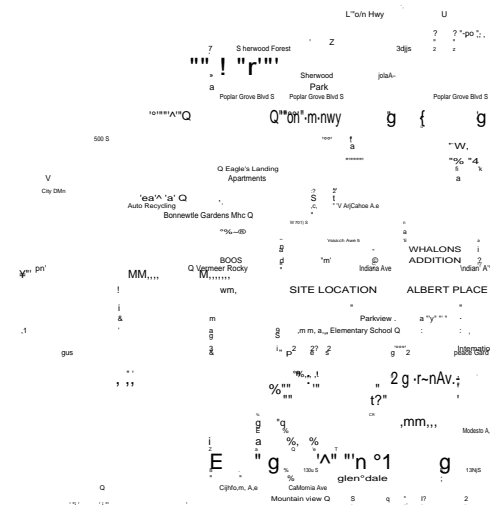
- a) The existing Round mounted utility box location and size are within a pattern that allowing an additional or larger Round mounted utility box will not create a significant impact on the character of the area because this area includes chain-link fences and the sides of garages. There are also cars and RV'S stored in the area. This equipment doesn't stand out, and if we install a wooded fence in the area where the equipment is located to better screen the equipment, it will further reduce impact on the character of the area.
- b) Evidence submitted that shows another location is not practical to service the subject area. As noted above in the Location Analysis, it is not practical to move this equipment to another location.
- c) Sufficiently demonstrates the reason that the larger cabinet is necessary. The larger cabinet is necessary because it is the industry standard equipment needed to provide the required cell service and fast data speeds to the surrounding residents while protecting the equipment from weather, theft, and tampering. Also, the power equipment is the industry standard needed provide the necessary electrical power output required by the cell tower.
- d) Demonstrate that the subject block face location is the only feasible location for the Round mounted utility box based on technical or physical constraints. This equipment is located approx. 100' from the street near and near a jogging trail. It was specifically chosen not to be seen from the street or side-walk. Once we install the wooden fence, this will greatly reduce the visual impact from the jogging trail. The location was close enough to the cell tower, fiber optic, and power sources to be feasible, but far enough away to limit its visual impact on the block face.
- e) Ground mounted utility boxes are spaced in such a manner as to limit the visual impact of the box when viewed from the street or an adjacent property. The ground mounted equipment is located approx. 100' from the street and is not easily visible from the street or sidewalk. The adjacent property is a school, and there are trees that line the parking lot, making it not easily visible from the school. We are proposing to install a wood fence around the equipment to limit the visual impact from the jogging track.
- f) The location will not obstruct access to other installed utility facilities. This location is on private property and is away from any other installed utility facilities. It has its own access and does not obstruct access to any other installed utility facility.
- g) The additional cabinet is compatible in design and size with the existing Round mounted utility boxes in the area. All equipment is currently existing, with nothing being added. All existing cabinets and utility boxes are compatible in design and size with what is used and installed with similar cell towers in the city.

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PARKVIEW SCHOOL
922 S. EMERY
SALT LAKE CITY, UT

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GENERAL LOCATION MAP

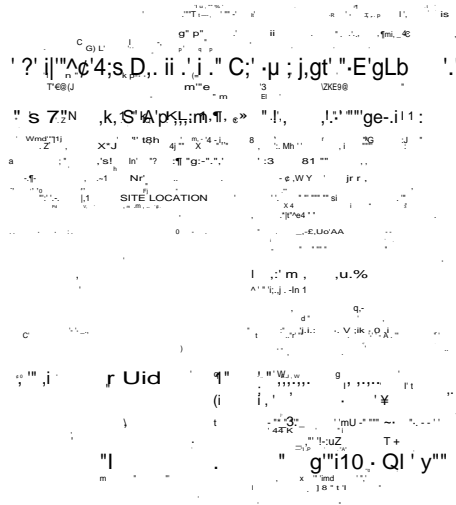


SIGNOFF

DATE PRINT NAME

NETWORK ENGINEER
SITE DEVELOPMENT
DEVELOPMENT MANAGER
CONSTRUCTION MANAGER
RF ENGINEER
PROJECT MANAGER
OPERATIONS
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]]^a(:[2018-00585 & PLNPCM2019-_0168

VICINITY MAP



SIGNA'UR'

CONTACTS

NETWORK SYSTEM OWNER
TMOBILE
121 WEST ELECTION ROAD
SUITE 300
TERRY COX
801-860-0285
PRINCIPAL POINT OF CONTACT
TELEPHONE UTILITY CONTACT
PROPERTY ADDRESS
R.F. ENGINEERING:
TMOBILE
121 WEST ELECTION ROAD
SUITE 300
TERRY COX
801-860-0285
PROJECT MANAGER
DARREN ANDERSON

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E-2 ANTENNA AND GROUNDING DETAILS
E-3 ANTENNA AND GROUNDING DETAILS
E-4 ELECTRICAL NOTES

DATE: 28-Sep-18
DRAWN BY: TGG/ALH
CHECKED BY: ROE
SL01635A

REVISIONS
DATE DESCRIPTION INITIAL

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SITE NUMBER:

SL01635A

SITE NAME: PARKVIEW SCHOOL

CITY, STATE: SALT LAKE CITY, UT

SHEET: TITLE SHEET

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GENERAL NOTES

1.

DRAWINGS ARE NOT TO BE SCALED. WRITTEN DIMENSIONS TAKE PRECEDENCE. THIS SET OF DOCUMENTS IS INTENDED TO BE USED FOR DIAGRAMMATIC PURPOSES ONLY. UNLESS NOTED OTHERWISE, THE GENERAL CONTRACTOR'S SCOPE OF WORK SHALL INCLUDE FURNISHING ALL MATERIALS, EQUIPMENT, LABOR, AND ANY REQUIREMENTS DEEMED NECESSARY TO COMPLETE INSTALLATION AS DESCRIBED IN THE DRAWINGS AND OWNER'S PROJECT MANUAL.
2.

DRAWINGS WERE PREPARED FROM STANDARDIZED DETAILS DEVELOPED AND PROVIDED BY ELECTRICAL CONSULTANTS, INC., AND T-MOBILE. STANDARDIZED DETAILS ARE TO BE CONFIRMED AND CORRELATED AT THE SITE BY THE CONTRACTOR. THE CONTRACTOR IS RESPONSIBLE FOR ALL DIMENSIONS. STANDARDIZED DETAILS THAT REQUIRE MODIFICATIONS DUE TO ACTUAL FIELD CONDITIONS AND REQUIREMENTS MUST BE SUBMITTED TO, AND APPROVED BY, T-MOBILE PRIOR TO START OF WORK.
3.

PRIOR TO THE SUBMISSION OF BIDS, CONTRACTORS INVOLVED SHALL VISIT THE JOB SITE TO FAMILIARIZE THEMSELVES WITH ALL CONDITIONS AFFECTING THE PROPOSED PROJECT. CONTRACTORS SHALL VISIT THE CONSTRUCTION SITE WITH THE CONSTRUCTION/CONTRACT DOCUMENTS TO VERIFY FIELD CONDITIONS AND CONFIRM THAT THE PROJECT WILL BE ACCOMPLISHED AS SHOWN. PRIOR TO PROCEEDING WITH CONSTRUCTION, ANY ERRORS, OMISSIONS, OR DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER VERBALLY AND IN WRITING.
4.

THE GENERAL CONTRACTOR SHALL RECEIVE WRITTEN AUTHORIZATION TO PROCEED WITH CONSTRUCTION PRIOR TO STARTING WORK ON ANY ITEM NOT CLEARLY DEFINED BY THE CONSTRUCTION DRAWINGS/CONTRACT DOCUMENTS.
5.

THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE PROJECT DESCRIBED IN THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THE CONTRACT.
6.

THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS ACCORDING TO MANUFACTURER'S/ENDOR'S SPECIFICATIONS UNLESS NOTED OTHERWISE OR WHERE LOCAL CODES OR ORDINANCES TAKE PRECEDENCE.
7.

ALL WORK PERFORMED ON THE PROJECT AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES. CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, REGULATIONS AND LAWFUL ORDERS OF ANY PUBLIC AUTHORITY, MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS, AND LOCAL AND STATE JURISDICTIONAL CODES BEARING ON THE PERFORMANCE OF THE WORK.
8.

GENERAL CONTRACTOR SHALL PROVIDE, AT THE PROJECT SITE, A FULL SET OF CONSTRUCTION DOCUMENTS UPDATED WITH THE LATEST REVISIONS AND ADDENDA OR CLARIFICATIONS FOR USE BY ALL PERSONNEL INVOLVED WITH THE PROJECT.
9.

THE STRUCTURAL COMPONENTS OF ADJACENT CONSTRUCTION OR FACILITIES ARE NOT TO BE ALTERED BY THIS CONSTRUCTION PROJECT UNLESS NOTED OTHERWISE.
10.

SEAL ALL PENETRATIONS THROUGH FIRE-RATED AREAS WITH U.L. LISTED OR FIRE MARSHALL APPROVED MATERIALS IF APPLICABLE TO THIS FACILITY AND OR PROJECT SITE.
11.

CONTRACTOR TO PROVIDE A PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A OR 2-A10BC WITHIN 75 FEET TRAVEL DISTANCE TO ALL PORTIONS OF PROJECT AREA DURING CONSTRUCTION.
12.

CONTRACTOR SHALL MAKE NECESSARY PROVISIONS TO PROTECT EXISTING IMPROVEMENTS, EASEMENTS, PAVING, CURBING, ETC. DURING CONSTRUCTION. UPON COMPLETION OF WORK, CONTRACTOR SHALL REPAIR ANY DAMAGE THAT MAY HAVE OCCURRED DUE TO CONSTRUCTION ON OR ABOUT THE PROPERTY.
13.

CONTRACTOR SHALL KEEP GENERAL WORK AREA CLEAN AND HAZARD FREE DURING CONSTRUCTION AND DISPOSE OF ALL DIRT, DEBRIS, AND RUBBISH. CONTRACTOR SHALL REMOVE EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY OR PREMISES. SITE SHALL BE LEFT IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, DUST, OR SMUDGES OF ANY NATURE.
14.

THE ARCHITECTS/ENGINEERS HAVE MADE EVERY EFFORT TO SET FORTH IN THE CONSTRUCTION AND CONTRACT DOCUMENTS THE COMPLETE SCOPE OF WORK. CONTRACTORS BIDDING THE JOB ARE NEVERTHELESS CAUTIONED THAT MINOR OMISSIONS OR ERRORS IN THE DRAWINGS AND OR SPECIFICATIONS SHALL NOT EXCUSE SAID CONTRACTOR FROM COMPLETING THE PROJECT AND IMPROVEMENTS IN ACCORDANCE WITH THE INTENT OF THESE DOCUMENTS. THE BIDDER SHALL BEAR THE RESPONSIBILITY OF NOTIFYING (IN WRITING) THE ARCHITECT/ENGINEER OF ANY CONFLICTS, ERRORS, OR OMISSIONS PRIOR TO SUBMISSION OF CONTRACTOR'S PROPOSAL. IN THE EVENT OF DISCREPANCIES THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MORE COSTLY OR EXTENSIVE WORK, UNLESS DIRECTED OTHERWISE.
15.

THE CONTRACTOR SHALL PERFORM WORK DURING OWNER'S PREFERRED HOURS TO AVOID DISTURBING NORMAL BUSINESS.
16.

THE CONTRACTOR SHALL PROVIDE T-MOBILE PROPER INSURANCE CERTIFICATES NAMING T-MOBILE AS ADDITIONAL INSURED, AND T-MOBILE PROOF OF LICENSE(S) AND PL & PD INSURANCE.

SYMBOLS & ABBREVIATIONS

T	TELEPHONE
P	POWER
G	GROUND WIRE
CC	COAXIAL CABLE
OA	ANTENNA
AI	ANTENNA MARK NO.
CL	CENTERLINE
[E]	EXISTING
[N]	NEW
W	WITH
PBO	PROVIDED BY OWNER
C)	"A" SHEET NUMBER
V.I.F.	VERIFY IN FIELD

DATE: 28-Sep-18

CHECKED BY: ROE

FILE: SL01635A

REVISIONS

DATE	DESCRIPTION	INITIAL
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ANDERSON

801-575-0222

SITE NUMBER:

SL01635A

SITE NAME: PARKVIEW SCHOOL

CITY, STATE: SALT LAKE CITY, UT

SHEET:

GENERAL NOTES

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;;anderson
801-872-6222
SL01635A
SITE NAME: PARKVIEW SCHOOL
CITY, STATE: SALT LAKE CITY, UT
SHEET: SITE PLAN

PROPOSED T-MOBILE EQUIPMENT, TYP.
ERICSSON AIR32 KRD901146-1 B66A B2A (OCTO

DATE: 28-Sep-18
DRAWN BY: TDG/JALH
CHECKED BY: ROE
FILE: SL01635A

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;;ANDERSON
ENGINEERING COMPANY INC.
801-870-6222

SITE NUMBER:
SL01635A
SITE NAME: PARKVIEW SCHOOL
CITY, STATE: SALT LAKE CITY, UT
SHEET: ISOMETRIC VIEW

Emery Street Antenna Array
PLNPCM2018-00585 & PLNPCM2019-00168

ISOMETRIC VIEW 1 A R
NOT TO SCALE

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UTILITY TRENCH DETAIL 1
NOT TO SCALE

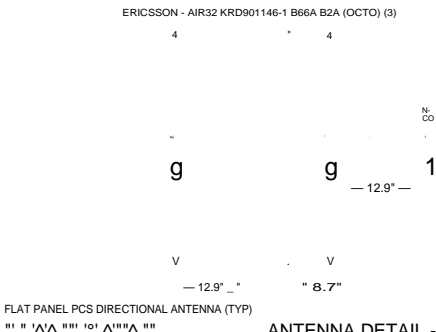


PROPOSED TEMPLATE IMAGE 4
NOT TO SCALE



NOTE: GRUB AND REMOVE TOPSOIL FROM SITE LIMIT LINE. REPLACE TO ORIGINAL GRADE +3" AFTER COMPACTION TO 95%.

SITE SOIL SECTION (TYP.) 2
NOT TO SCALE



ANTENNA DETAIL - PROPOSED

DATE, 28-Sep-18
DRAWN BY, TDG/ALH
CHECKED BY, SLR/ROSA

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ANDERSON
ENGINEERING COMPANY INC.
801.873.8222

SITE NUMBER:
SL01635A
SITE NAME: PARKVIEW SCHOOL
CITY, STATE: SALT LAKE CITY, UT
SHEET: CONSTRUCTION DETAILS

GROUNDING NOTES

1.

ALL DETAILS ARE SHOWN IN GENERAL TERMS. ACTUAL INSTALLATION AND CONSTRUCTION MAY VARY DUE TO SITE SPECIFIC CONDITIONS. IF SITE SOIL CONDITIONS ARE CORROSIVE USE OF A LARGER MAIN GROUND RING CONDUCTOR MAY BE NECESSARY.
2.

GROUND ALL ANTENNA BASES, FRAMES, CABLE RUNS, AND OTHER METALLIC COMPONENTS USING GROUND WIRES AND CONNECT TO SURFACE MOUNTED BUS BARS. FOLLOW ANTENNA AND BTS MANUFACTURERS PRACTICES FOR GROUNDING REQUIREMENTS. GROUND COAX SHIELD AT BOTH ENDS AND EXIT FROM TOWER OR POLE USING MFR'S PRACTICES.
3.

ALL GROUND CONNECTIONS SHALL BE CADWELDED BELOW GROUND LEVEL. ALL GROUND WIRE SHALL BE SOLID COPPER WITH GREEN INSULATED THIN WIRE ABOVE GROUND EXCEPT CONDUCTORS CONNECTING TO GROUND RING.
4.

CONTRACTOR TO VERIFY AND TEST GROUND TO SOURCE TO A MAXIMUM OF 5 OHMS. IF THE GROUND TEST DID NOT ACHIEVE THE MAXIMUM OF 5 OHMS, CONTRACTOR SHALL BE RESPONSIBLE TO PROVIDE ADDITIONAL GROUNDING TO MEET 5 OHM MAX. REQUIREMENT. GROUNDING AND OTHER OPERATIONAL TESTING WILL BE WITNESSED BY THE T-MOBILE REPRESENTATIVE.
5.

ELECTRICAL CONTRACTOR TO PROVIDE DETAILED DESIGN OF GROUNDING SYSTEM, AND RECEIVE APPROVAL OF DESIGN BY AUTHORIZED T-MOBILE REPRESENTATIVE, PRIOR TO INSTALLATION OF GROUNDING SYSTEM.
6.

NOTIFY ARCHITECT/ENGINEER IF THERE ARE ANY DIFFICULTIES INSTALLING GROUNDING SYSTEM DUE TO SITE SOIL CONDITIONS.
7.

IF SURGE SUPPRESSER IS AN EXTERIOR MOUNT, RUN A #2 BARE CU GROUND WIRE IN A 1" SCHED 40 PVC CONDUIT TO SIDE SPLICE CADWELD @ GROUND RING. HEAT RADIUS CONDUIT TO PRODUCE LARGE RADIUS BENDS. STRAP TO SLAB AT 2 POINTS (MIN).
8.

ALL GROUNDING WIRE RUNS AND CONNECTIONS, BOTH ABOVE AND BELOW GRADE, SHALL BE LOCATED INSIDE OF THE LEASE AREA LINE.
9.

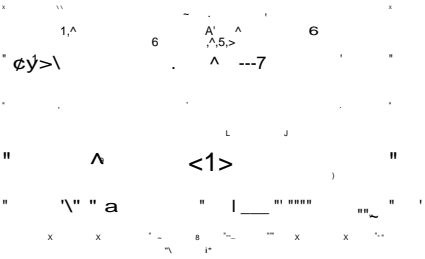
FOR PRECISE SITE LOCATION AND CONFIGURATION REFER TO SHEET A-2.
10.

ALL GROUNDING ELECTRODES PRESENT AT A BUILDING OR STRUCTURE MUST BE BONDED TOGETHER TO FORM A GROUNDING ELECTRODE SYSTEM, AS REQUIRED BY NEC @ SECTION 250.50 INCLUDING MONOPOLE. TOWER OR BUILDING FOUNDATIONS, REBAR SHALL BE BONDED TO FORM A CONCRETE ENCASED ELECTRODE PER NEC 250.52(A)(3) IN ADDITION TO AND TIED TO THE TYPICAL GROUNDING SYSTEM SHOWN.
11.

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO T-MOBILE CORP. SERVICES IS STRICTLY PROHIBITED.

Ground Monitoring Well

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SYMBOL DESCRIPTION

NOTE:

IF SURGE SUPPRESSER IS AN EXTERIOR MOUNT, RUN A #2 BARE CU GROUND WIRE IN A 1" SCHED 40 PVC CONDUIT TO SIDE SPLICE CADWELD @ GROUND RING. HEAT RADIUS CONDUIT TO PRODUCE LARGE RADIUS BENDS. STRAP TO SLAB AT 2 POINTS (MIN).

PLN-POM2018-00585 & PLN-POM2011-301168

TYPICAL GROUNDING PLAN 1

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GROUNDING KEYED NOTES

- 0

EXTERNAL GROUND RING: #2 BARE SOLID COPPER WIRE AT 2'-6" BELOW GRADE (REFER TO DETAIL 3/E-3).
- 2

MAIN GROUND CONNECTION POINT.
- 3

5/8" X 8'-0" COPPER GROUND ROD (PBO). SPACE GROUND ROD AT 10' O.C. MIN. TYPICAL AS REQUIRED. REFER TO 3/E-3.
- 4

GROUND FROM INTERNAL BTS GROUND BAR TO MGB LOCATED IN SYSTEM DEMARCATION CABINET. RUN GROUNDING LINE INSIDE OF 2" PVS CONDUIT.
- 5

TIE INTO GROUND RING.
- 6

MASTER GROUND BUS BAR (MGB) LOCATED IN SYSTEM DEMARCATION CABINET. CADWELD GROUND CONNECTION FROM GATE TO FENCE POST, FOR PRECISE GATE LOCATION REFER TO A-2
- 8

CONCRETE EQUIPMENT PAD
- @)

#2 SOLID COPPER WIRE
- 1*

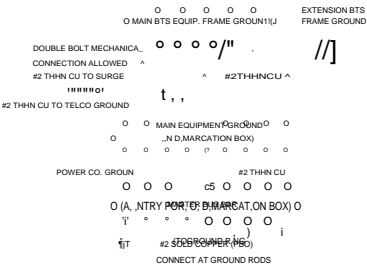
GROUND BAR AT BASE MONOPOLE SEE SHEET E-3 FOR DETAIL.
- 13

CONCRETE ENCASED ELECTRODE (IF AVAILABLE) SEE NOTE 10.

TYPE TA	TYPE HS	TYPE GT	TYPE HA	TYPE SS
TYPE PT	TYPE GR	TYPE XA	TYPE VS	TYPE GL LUG

NOTE: CADWELD TYPES SHOWN ABOVE ARE EXAMPLES. CONSULT WITH PROJECT MANAGER FOR SPECIFIC TYPES OF CADWELDS TO BE USED FOR THIS PROJECT.

CADWELD DETAILS 2



GROUNDING SCHEMATIC 3

DATE:	28-Sep-18	
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FILE,	SL01635A	
REVISIONS		
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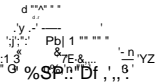
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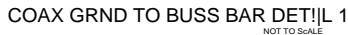
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ENGINEERING COMPANY INC.
801-872-6222

SITE NUMBER:

SL01635A

SITE NAME: PARKVIEW SCHOOL
STATE: KANE COUNTY, UT
GROUNDING DETAILS

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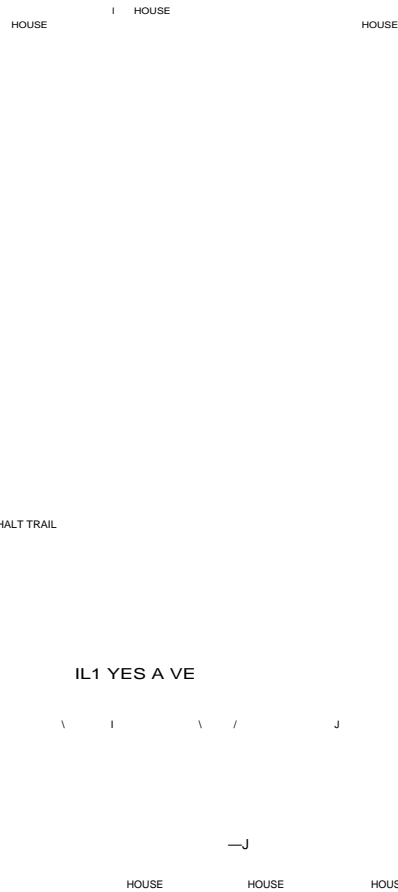
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SITE NUMBER:

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SCHOOL NAME: SLOAN SCHOOL
CITY, STATE: SALT LAKE CITY, UT
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GROUNDING DETAILS



DATE, 6/11/14
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CHECKED BY, T.C.
FILE, SL01635A PARKVIEW SCHOOL

REVIEWS
DATE DESCRIPTION INITIAL
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9/21/14 REV. CONST. PER CITY DO
10/7/14 CHANGE CABINET SIZE DO
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ENGINEER STAMP

THE KEG COMPANY, LLC, T
Site Acquisition, Leasing and Zoning
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SUITE 330
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SITE NUMBER:
SL01635A
PARKVIEW SCHOOL
525 SOUTH EMERY AVE
SALT LAKE CITY, UT 84104

DATE DESCRIPTION INITIAL

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ENGINEER STAMP

Site Acquisition, Leasing and Zoning

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SL01635A
PARKVIEW SCHOOL
922 SOUTH EMERY AVE
SALT LAKE CITY, UT 84104

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Boxes Left to Right

Box 1:
Height: 72"
Length: 30"
Depth: 36"

Box 2:
Height: 67"
Length: 51"
Depth: 27.5"

Box 3:
Height: 48"
Length: 48"
Depth: 14"
Total height from ground: 72"

Box 4:
Height: 30"
Length: 22"
Depth: 6"
Total height from ground: 76"

Box 5:
Height: 60"
Length: 25.5"
Depth: 10.5"
Total height from ground: 77"

NON-EXCLUSIVE LEASE AGREEMENT

This Non-Exclusive Lease Agreement, including all Exhibits attached hereto and incorporated herein by this reference (collectively, the "Lease"), is entered into by and between PacifiCorp, an Oregon corporation ("Lessor") and T-Mobile West LLC, a Delaware limited liability company ("Lessee").

RECITALS

WHEREAS, Lessor is an electric utility which owns distribution and transmission poles used in connection with its electric utility operations.

WHEREAS, Lessee is a telecommunications company that desires to lease space on and within a certain Pole ("Pole Space") located on certain real property described in the Exhibit A attached hereto and incorporated herein by this reference (the "Property") to be rebuilt for the purpose of locating thereon certain communication equipment and facilities used in connection with its business operations, although such equipment and facilities will not be located within the Communications Space.

WHEREAS, Lessor and Lessee desire to enter into this Lease to provide the general terms pursuant to which Lessor shall lease the Pole Space to Lessee.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree to the following terms and conditions.

AGREEMENT

I. Definitions.

1.1. Communications Space. That space on Lessor's Pole utilized by or reserved to certain joint users by franchise agreement or other agreement for cable television or telecommunications services.

1.2. Emergency Condition. Any interference or degradation by Lessee Equipment as prohibited herein which, in Lessor's reasonable opinion, jeopardizes Lessor's utility operations or Electric Facilities, or the operations or electric facilities of a Service Provider, or creates an imminent risk of physical injury.

1.3. Electric Facilities. Any equipment, facilities, or improvements located on the Pole that are owned or operated by Lessor or a Service Provider. "

1.4. Lessee Equipment. Equipment attached by Lessee to the Pole or otherwise used by Lessee on or within the Pole Space which has been pre-approved in writing by Lessor in accordance with terms and conditions herein.

1.5. Party. Lessor Or Lessee, as the context requires; "Parties" means Lessor and Lessee.

1.6. Permitted Uses. Lessee's use of the Pole for the installation, operation, for unmanned

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specified on attached Exhibit B and incorporated herein by reference, provided such use is pre-approved in writing by Lessor.

1.7. Pole. Lessor's distribution and transmission Pole, as specifically depicted in Exhibit A, attached hereto, whether presently existing or to be reconstructed as described in Exhibit A.

1.8. Pole Space. That space, as described in Exhibit A, on and within each Pole that Lessor permits Lessee, pursuant to this Lease, to attach and install Lessee Equipment.

1.9 Service Provider. A company, other than Lessor, providing electrical utility service at or from the Property.

2 Lease. ,

2.] Pole Space. Subject to the terms and conditions contained herein, Lessor agrees to lease the Pole Space to Lessee and Lessee agrees to lease the Pole Space from Lessor. Lessee acknowledges and agrees that Lessor has made no representations or warranties, express or implied, other than those expressly set forth herein regarding: (i) the physical condition of the Pole or Pole Space; (ii) the suitability of the Pole or Pole Space for Lessee's desired purposes; or (iii) the state of title of the Pole. Lessee further acknowledges and agrees that: (a) Lessee is experienced in land acquisition and site development; (b) that Lessee has conducted or will conduct all necessary and appropriate inspections of the Pole and Pole Space; and (C) unless otherwise set forth herein, Lessee accepts the Pole Space in "as-is, where-is and with all faults" condition.

2.2 Rights of Way. Lessee acknowledges and agrees that Lessee shall be solely responsible and liable for securing any underlying land rights to the extent necessary for its purposes under this Lease. Lessee also agrees and acknowledges that, except as to the Pole Space, this Lease is non-exclusive.

3 Use.

3.1 Permitted Uses. Lessee may use the Pole Space only for the Permitted Uses. Under no circumstances shall Lessee place any signage, logos, or graphics on the Pole or Lessee Equipment, except for such signage required by law or required pursuant to this Lease.

3.2 Compliance with Governmental Requirements. Lessee's use of the Pole Space shall be lawful and in compliance with all applicable laws, orders, ordinances, and regulations of federal, state, county, and municipal authorities and agencies ("Governmental Authorities"), including but not limited to the Federal Communications Commission ("FCC").

3.3 Governmental Approvals. Lessee shall, at its own expense, obtain all authorizations, approvals, permits, licenses, variances, and certificates from Governmental Authorities having jurisdiction required for Lessee's Permitted Uses, including but not limited to, all necessary zoning, land use, or similar approvals, and all certificates of public convenience and necessity, licenses, or similar operating authority from the FCC (collectively, "Governmental Approvals"). Lessor agrees to reasonably cooperate with Lessee, at Lessee's sole expense, in obtaining Governmental Approvals. Lessor expressly grants to Lessee a right of access to the Pole Space to perform other engineering procedures or investigations thereon to determine that Lessee's use of the Pole Space will be safe and compatible with Lessee's engineering specifications, system design, operations and Governmental Approvals, subject to the restrictions in Section 4.2.

4 Access.

4.1 Right and Location. Lessee acknowledges and agrees that Lessee's access to the Pole Space may be temporarily restricted as a result of Lessor's and/or Service Provider's activities in the normal course of operating Electric Facilities, including activities related to electric outages and other emergencies. Lessor and Lessee agree to cooperate with one another and with Service Providers to minimize any restricted access to the Pole Space.

4.2 Restricted Access. Lessee may not access the Pole unless accompanied by a qualified representative. A qualified representative shall be either an employee of Lessor or a contractor who is pre-approved in writing by Lessor, such approval not to be unreasonably withheld, conditioned or delayed. Lessee shall pay, as Additional Rent, Lessor's reasonable out-of-pocket costs in accompanying Lessee to the Pole outside of Lessor's normal operating hours. In the event of an emergency on the Pole, Lessee shall notify Lessor by telephone and Lessor will make access available to Lessee as soon as practicable.

5 Interference.

5.1 Interference Prohibited. Lessee shall not, nor shall it allow its licensees, employees, invitees, contractors, or agents to engage in any activity on or about the Pole that interferes with the access or use of the Pole or associated facilities by Lessor, a Service Provider, or their respective lessees or licensees (other than Lessee); nor shall Lessee permit the transmission of its electromagnetic signals to cause interference with or degradation of the prior existing transmissions or authorized radio frequencies of Lessor, a Service Provider or their respective lessees or licensees (other than Lessee). Lessee shall, at its own expense, eliminate any such interference or degradation as soon as practicable after receipt of notice by Lessor, which notice may be made by telephone to 1-888-662-4662 or such other number as Lessee may provide.

5.2 Emergency Condition. Lessee shall install and maintain a disconnect switch that can be operated manually or remotely for the purpose of powering down Lessee's Equipment and all battery backups in the event of an emergency. Lessee shall place and maintain signage meeting Lessor's reasonable requirements on Lessor's power pole as well as Lessee's equipment cabinet that contains the site identification number, a contact phone number for the purpose of requiring Lessee to power down its Equipment, and a notice that the Equipment has battery backup when the disconnect switch to Lessor's system is open. Such signage shall not be subject to discoloring or peeling away. Lessee shall completely shut off all power to its Equipment within one hour of a request from Lessor. Lessor shall have the right to disable, or cause to be disabled, either manually or remotely.

5.3 Preventing Interference. In order to prevent interference, Lessee shall provide Lessor with written plans for any material alteration or modification to Lessee's Equipment on the Pole, including any frequency change or additions outside of Lessee's FCC authorized frequency bands. Such plans shall be submitted to Lessor at least thirty (30) days prior to commencing such work. Lessor shall not unreasonably withhold, condition or delay its review of such plans. Lessor shall notify Lessee in writing of any material modification to Lessor's Equipment that it reasonably believes may present a substantial risk of interference with Lessee's Equipment. If Lessee determines that it is not economically practical to correct an interference problem caused by

Lessor's modification, Lessee may terminate this Lease by providing written notification to Lessor

with no further obligations or liability thereunder except the obligations accrued to the date of termination. In such event, any prepaid Base Rent (as defined below) paid in advance under this Lease shall be promptly reimbursed to Lessee in the amount of any unused portion thereof.

5.4 Lessor's Use of the Pole. Lessee acknowledges and agrees that Lessor's and other Service Providers' access to and use of the Electric Facilities in the normal course of providing electric service, including activities related to electric outages and emergencies of whatever type and however caused, shall not constitute an impermissible interference with Lessee's use of the Pole Space and that Lessor and Service Providers shall not be liable to Lessee as a result of any interference in any way arising from such use.

6 Term.

The term of this Lease shall commence on the earlier of: (i) the first day of the month following commencement of construction; or (ii) August 1, 2016 ("Commencement Date"). The initial term of this Lease shall be for five (5) years and terminate on the day immediately preceding the fifth (5th) anniversary of the Commencement Date, subject to the conditions and provisions set forth in this Lease. Lessee shall have the right to extend the term of this Lease for four (4) successive five (5) year terms (each a "Renewal Term") on the same terms and conditions. This Lease shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor of its intention not to renew at least thirty (30) days prior to commencement of the succeeding Renewal Term.

7 Rent, Fees, and Taxes.

7.1 Base Rent. During the term of this Lease, Lessee shall pay annual rent to Lessor in the initial amount of SEVENTHOUSAND TWOHUNDRED DOLLARS (\$7,200.00) (the "Base Rent"). The first annual payment shall be made within twenty (20) business days of the Execution Date and thereafter on or before the annual anniversary of the Commencement Date, to be increased as provided in Section 7.2, below, together with the Additional Rent hereinafter described.

7.2 Increase in Base Rent. The Base Rent for each year following the first year of this Lease shall be increased on the anniversary date of the Commencement Date by an amount equal to three and one-half percent (3.5%) of the rent due the prior year.

7.3 Additional Rent. In addition to the Base Rent, Lessee agrees to pay to Lessor as "Additional Rent": (i) all expenses incurred by Lessor as a result of providing access to Lessee as provided in Section 4.2 hereof; (ii) all expenses, costs, fees, taxes, increases in fees and taxes, and charges of any nature imposed by a Governmental Authority (but excluding taxes on Lessor's net income) incurred by Lessor as a result of Lessee's use or occupancy of the Pole Space, or as specified elsewhere in this Lease; (iii) any increase in Lessor's lease payments or permit fees under any ground lease or permit of which Lessor notifies Lessee in writing prior to the time this Lease is executed by both Parties, which occurs as a result of Lessee's use or occupancy of the Pole Space, or as a result of this Lease; and (iv) any reasonable expenses (using Lessor's standard rate plan for such charges) incurred by Lessor relating to Lessee's inspection, testing, use, or occupancy of the Pole Space, or activities preparatory to attachment of Lessee Equipment to the Pole Space. Payment of such Additional Rent is due within thirty (30)

days following Lessee's receipt of invoice from Lessor, together with reasonable supporting documentation. If there are lessees, licensees, or other users in addition to Lessee leasing or using the Pole Space, and it cannot be determined whether the additional expenses specified herein are attributable solely to Lessee, then Lessee and the other lessees, licensees, or other users shall pay an equal portion of Additional Rent.

7.4 Holdover Rent. If Lessee retains possession of the Pole Space after expiration of this Lease, the Base Rent for the Pole Space shall be increased to one hundred fifty percent (150%) of the last Base Rent applicable to the Pole Space prior to expiration.

7.5 Taxes. Lessee shall pay when due any taxes, including but not limited to any personal property taxes assessed on, or any portion thereof attributable to Lessee Equipment, and Lessee's construction, operation, and maintenance thereof. Lessor shall pay when due all real property taxes and assessments attributable to Lessee's use of the Pole Space.

7.6 Application Fees. Lessee shall pay a One Thousand Dollar (\$1,000.00) fee for the application submitted with this Lease. This fee shall be payable upon submittal of the application and is nonrefundable.

7.7 Late Charge. If any payment or rent by Lessee is not received by Lessor within ten (10) business days of Lessee's receipt of written notice of past due payment, Lessee shall pay Lessor a late payment charge equal to ten percent (10%) of the overdue amount. Lessee agrees that this late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of Lessee's late payment. Lessor's acceptance of a late charge shall in no event constitute a waiver by Lessor of Lessee's default for the payment of the overdue payment; nor prevent Lessor from exercising any of the other rights or remedies granted Lessor under this Lease, or at law or in equity.

" 8 Reconstruction of Pole.

8.1 Construction of Pole. Lessor will reconstruct the Pole as described in Exhibit A. Lessor reserves the right to review the plans attached in Exhibit A and adjust design or cost estimates at additional charge to Lessee to reflect changed conditions during the Option Period. Lessor shall begin work to reconstruct the Pole after written notice from Lessee that all necessary Governmental Approvals have been obtained. After receiving such notice, Lessor shall schedule the work according to its usual business practices and will provide an estimate of the time required to complete construction. Lessee acknowledges that availability of materials and outage coordination may lengthen the time needed. Lessor and Lessee may adjust or extend the time allowed for completion of construction by mutual agreement; however, Lessor shall not be obligated to incur additional costs or losses to meet an expedited schedule.

8.2 Ownership. Lessor owns the Pole and will continue to own the Pole. Nothing in this Lease should be construed as conferring to Lessee ownership of the Pole.

8.3 Failure to Complete. Except for Lessor's gross negligence or willful misconduct, failure of Lessor to complete construction within such period specified in Section 8.1 shall not be a default under this Lease, nor shall Lessor be liable to Lessee for any loss or damage of any type or kind resulting therefrom. In the event of Lessor's failure to complete construction within such period, Lessee may terminate this Lease by written notice to Lessor.

8.4 Completion. Lessor shall notify Lessee in writing upon completion of construction, whereupon Lessee may attach Lessee Equipment to the Pole.

9 Lessee Equipment.

9.1 Initial Installation. Upon the Commencement Date, Lessee shall have the right, at its sole cost and expense, to install, maintain, and operate the Lessee Equipment on and within the Pole Space, as described in Exhibit A; provided, however, all such work shall be performed by either Lessor or a contractor pre-approved by Lessor in writing and in Lessor's reasonable discretion. Prior to commencing any installation of Lessee Equipment, Lessee shall provide Lessor with a description of Lessee Equipment and its plans for installation or alteration for approval, which approval shall not be unreasonably withheld or delayed, or conditioned. All of Lessee's work must be performed at Lessee's sole cost and expense, in a good and workmanlike manner, and in accordance with any applicable laws, ordinances and regulations. Such work shall not adversely affect the structural integrity, maintenance, operations, or use of the Pole by Lessor, and shall not interfere with or adversely affect any Electric Facilities or access thereto. Any plans for structural modification to the Pole to accommodate attachment of Lessee Equipment must be reviewed and approved by a licensed structural engineer and submitted for Lessor's review and approval, such approval not to be unreasonably withheld, conditioned or delayed.

9.2 Damage. With the exception of reasonable wear and tear, such use may not damage, destroy, or impair the structural integrity of the Pole in any way. In the event of any such damage, destruction, or impairment caused by Lessee's use of the Pole, Lessee shall be responsible for providing for the repair or replacement of such Pole at Lessee's own expense, under the direction and to the reasonable satisfaction of Lessor; provided, however, that if Lessee does not cause the performance of such repairs or replacement within a reasonable period of time after receipt of written notice from Lessor, Lessor shall have the option to perform such repairs or replacement itself or through its own contractor at Lessee's expense. Such costs shall be paid by Lessee as Additional Rent within thirty (30) days of receiving an invoice and supporting documentation.

9.3 Maintenance and Repair. Lessee shall, at its own expense, keep and maintain Lessee Equipment in commercially reasonable condition and repair during the term of this Lease. Lessor shall not be obligated to incur costs or loss of revenue or otherwise assist Lessee in meeting such obligations.

9.4 Utility Service. Lessee shall be responsible to provide any necessary connection for the provision of electric or other utility service to Lessee Equipment, and shall pay all electric utility charges for electricity consumed by Lessee.

9.5 Inspection. Lessor shall be entitled at any time and without notice to Lessee to inspect the Pole Space and Lessee Equipment. Lessor shall conduct its inspections in a manner that will reasonably minimize the disruption of Lessee's Permitted Uses.

9.6 Title, Modification and Removal. Lessee Equipment shall remain the exclusive personal property of Lessee, and shall not be deemed to be fixtures or real property regardless of the manner of attachment to the Pole. Subject to the requirements of Section 4.2, immediately, upon expiration

or within sixty (60) days of the earlier termination of this Lease, Lessee shall have the right to add, modify, or remove Lessee Equipment during the term of this Lease, provided that any material addition, modification or removal of Lessee Equipment shall be done with the written consent of Lessor, such consent not to be unreasonably withheld, delayed, or conditioned. The Parties agree that repairing and/or replacing Lessee's Equipment with equipment of substantially equal, quantity, size, weight, shape and function is not a material addition, modification or removal. By written notice, Lessor may require Lessee to remove all or anypart of the Lessee Equipment, and any other property which it installed on the Pole, at Lessee's sole expense, within thirty (30) days of the expiration or earlier termination of the this Lease. If Lessee fails to remove any Lessee Equipment or other property within thirty (30) days after written notice to Lessee following the expiration or earlier termination of this Lease or holdover tenancy, Lessor may remove all or any part of such Lessee Equipment or other property at Lessee's cost and expense in a commercially reasonable manner; provided, however, that Lessor shall not be deemed to have assumed any obligation to any party holding a security interest in the Lessee Equipment, and Lessee shall remain liable to such secured party.

10 Co-Location.

10.1 On Lessor's Pole. Lessee acknowledges that during the term of this Lease, Lessor may permit one or more additional lessees or licensees ("Co-Locator") to attach communications equipment ("Co-Locator Equipment") to Lessor's Pole, and to operate such equipment, provided that: (1) the Pole is structurally capable of also supporting Co-Locator's Equipment; (2) such attachment is permitted or allowed under applicable laws and regulations; and (3) Co-Locator's Equipment does not unreasonably interfere with Lessee's Permitted Uses or with Lessee's Equipment. Any such co-location shall be subject to the following additional terms and conditions:

- i If structural additions or modifications of Lessor's Pole are required to accommodate a Co-Locator's Equipment, then Lessee shall reasonably cooperate with the Co-Locator to make such additions or modifications, provided that the Co-Locator shall be responsible for construction of such additions or modifications, and shall bear all costs and expenses thereof, and such additions or modifications and the construction thereof shall not unreasonably interrupt or interfere with Lessee's Permitted Uses or Lessee's Equipment
- ii The Parties and any Co-Locators shall each have the obligation to reasonably cooperate with each other to avoid or minimize any interference with each other's communications transmissions from the equipment located on the Pole. Notwithstanding the foregoing, the party or Co-Locator who subsequently brings equipment to, or adds or modifies the use of equipment on the Pole (excluding replacement equipment that transmits at the same frequency(ies) and power) will have the obligation to eliminate any new interference to existing uses on the Pole caused by such new or changed equipment or use.
- iii Notwithstanding anything to the contrary contained herein, this Section shall not apply to (i) Co-Locators who are already attached to Lessor's Pole, or a pole for which the Pole is being constructed as a replacement, at the time of execution of this Lease; and (ii) Co-Locators within the Communications Space on utility Pole owned

or leased by Lessor; provided that any attachments within the Communications Space shall comply with applicable state and federal law and shall not unreasonably interfere with Lessee's Permitted Uses under this Lease.

II Termination Prior to Expiration.

11.1 By Lessor. Provided that Lessor is not in material default of this Lease, Lessor may terminate this Lease as follows:

- i Immediately upon an Event of Default by Lessee as defined and set forth in Section 20 hereof which is not cured within forty-five (45) days after written notice of the default to Lessee; or, if such breach is not curable within forty-five (45) days, Lessee fails to commence such cure within forty-five (45) days, or fails thereafter diligently to prosecute such cure to completion.
- ii Immediately in the event Lessor or another Service Provider experiences interference with Lessor's or Service Provider's use of or access to their respective Electric Facilities due to Lessee's placement or operation of Lessee Equipment on the Pole and such interference is not eliminated as provided in Section 5 hereof; provided, however, that Lessor shall, at Lessee's sole cost and expense, reasonably cooperate with Lessee to resolve any such interference prior to exercising such right of termination.
- iii Immediately in the event of condemnation of the Property on which the Pole is located as of the date the condemning authority takes possession, or the date of vesting of title in the condemning authority, whichever first occurs, as indicated in Section 02 below, unless the Parties agree to an amendment of this Lease with respect to such Pole.
- iv Upon forty-five (45) days' prior written notice in the event that Lessee is unable to obtain necessary Governmental Approvals within six (6) months from execution of this Lease.
- v Upon forty-five (45) days' prior written notice where Lessor has the obligation to construct any Pole and Lessor faces significant opposition by any third party or the public sector, as determined in the reasonable discretion of Lessor. During the forty-five (45) day period, Lessee may, at its expense, placate or otherwise overcome the opposition and Lessor will reasonably cooperate in that attempt to resolve such opposition.
- vi Upon forty-five (45) days' prior written notice when the Pole upon which Lessee's Equipment is attached is taken out of service by Lessor or removed, upgraded, or modified in a manner that Lessee's Equipment becomes incompatible with Lessor's use of the Pole. In such event, Lessor shall make a good faith effort to work with Lessee to relocate its Lessee Equipment to a mutually agreeable location or to allow Lessee to make such modifications that will allow Lessee to continue to utilize the Pole Space for its Permitted Uses. Such modification or relocation shall be made at Lessee's sole expense.

11.2 By Lessee. Provided that Lessee is not in material default of this Lease, Lessee may terminate this Lease as follows:

- i Immediately upon an Event of Default by Lessor as defined and set forth in Section 20 herein, which is not cured within forty-five (45) days after written notice of the default to Lessor; or, if such breach is not curable within forty-five (45) days, if Lessor fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion.
- ii Immediately in the event of condemnation of the property upon which any Pole is located as of the date the condemning authority takes possession, or the date of vesting of title in the condemning authority, whichever first occurs or in the event of casualty, in accordance with Section 0 below.
- iii Upon forty-five (45) days' prior written notice if Lessee is unable to obtain or maintain, after reasonable efforts to do so, any Governmental Approvals necessary for construction, installation, operation and maintenance of the Lessee Equipment.
- iv Upon forty-five (45) days' prior written notice to Lessor in the event that Lessee reasonably determines that any electronic emissions by Lessor materially interfere with the operation of Lessee Equipment Pole Space and such interference is not eliminated as provided in Section 5 hereof.
- v. Immediately by Lessee upon forty-five (45) days' prior written notice to Lessor if Lessee determines that the continued operation of the Lessee Equipment is economically or operationally unsound.

11.3 Consequences of Termination. In the event of termination of this Lease:

- i Any prepaid Base Rent shall be apportioned based on the termination date and reimbursed by Lessor to Lessee, unless termination is on account of Lessee's material breach of this Lease, in which event Lessor may retain so much of the prepaid rent as Lessor deems necessary to offset its damages and expenses resulting from the breach.
- ii Termination shall not extinguish any accrued obligations of the Parties.

12 Condemnation and Casualty.

12.1 Condemnation. If at any time during the term of this Lease, all or substantially all (meaning the remaining portion thereof shall not be of sufficient size or condition to permit the continuation of Lessee's use in a commercially reasonable manner as reasonably determined by Lessee) of the Property or Pole Space is to be taken in the exercise of the power of eminent domain by any Governmental Authority or other person or entity possessing such power, or by deed in lieu of condemnation, then this Lease shall automatically terminate, effective as of the date of possession by the condemning authority or the vesting of title in the condemning authority, whichever first occurs. Lessor and Lessee shall each be entitled to pursue their own separate condemnation awards.

12.2 Casualty. Upon an event of casualty which destroys all or part of the Pole Space, Lessor,

shall, in its sole discretion, determine whether to reconstruct that portion of the Pole Space which is destroyed. If Lessor elects not to reconstruct, Lessee may terminate this Lease upon the date of destruction or at any time after learning of Lessor's election not to rebuild the Pole Space.

13. Insurance. Without limiting any liabilities or any other obligations of Lessee, Lessee must procure and continuously carry, with insurers having an A.M. Best's rating of A-:VII or better, the following insurance against claims for injury to persons or damage to property which may arise from or in connection with this Lease or Lessee's use or occupancy of the Property as follows:

13.1 Workers' Compensation. Lessee shall comply with all applicable Workers' Compensation laws and furnish proof thereof satisfactory to PacifiCorp prior to commencing work on the Premises.

13.2 Employers' Liability. Lessee shall maintain employers' liability insurance with limits not less than of \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 by disease policy limit.

13.3 Commercial General Liability. Lessee shall maintain commercial general liability insurance on an approved ISO policy form, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate to protect against and from any and all loss by reason of bodily injury or property damage on or about the Premises, including the following coverages:

- a. Premises and operations coverage
- b. Independent contractor's coverage
- c. Contractual liability
- d. Broad form property damage liability
- g. Personal and advertising injury liability, with the contractual exclusion

' removed

13.4 Business Automobile Liability. Lessee shall maintain business automobile liability insurance on an most recently approved ISO policy form, or its equivalent, with a minimum combined single limit of \$1,000,000 for bodily injury and property damage including sudden and accidental pollution liability per accident, with respect to Lessee's vehicles whether owned, hired or non-owned, assigned to or used in any way on the Premises in the performance of work.

13a Umbrella Liability. Lessee shall maintain umbrella or excess liability insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable on a following form basis to be excess of the insurance coverage and limits required in employers' liability insurance, commercial general liability insurance and business automobile liability insurance above. Lessee shall provide Notice to PacifiCorp, if at any time the full umbrella limit required under this Lease is not available, and will purchase additional limits, if requested by PacifiCorp.

PacifiCorp does not represent that the insurance coverages specified herein (whether in scope of coverage or amounts of coverage) are adequate to protect the obligations of Lessee, and Lessee shall be solely responsible for any deficiencies thereof.

Except for workers' compensation, the policies required herein shall include provisions or endorsements naming PacifiCorp, its parent, divisions, affiliates, subsidiary companies, co-lessees, co-venturers, officers, directors, agents, employees, servants and insurers as additional insureds or loss payees, as applicable to specific insurance coverage. The commercial general liability additional insured endorsement shall be ISO Form CG 20 10 and ISO Form CG 20 37, or their equivalents.

To the extent of Lessee's negligent acts or omissions, all policies required by this Lease shall include: (i) provisions that such insurance is primary insurance with respect to the negligence of Lessee and that any other insurance maintained by PacifiCorp (including self-insurance) is excess and not contributory insurance with the insurance required hereunder; and (ii) provisions that the policy contain a cross liability or severability of interest clause or endorsement in the commercial general liability and automobile liability coverage. Unless prohibited by applicable law, all required insurance policies, except for workers' compensation policies, shall contain provisions that the insurer will have no right of recovery or subrogation against PacifiCorp, its parent, divisions, affiliates, subsidiary companies, co-lessees or co-venturers, agents, directors, officers, employees, servants, and insurers, it being the intention of the Parties that the insurance as effected shall protect all of the above-referenced entities evidenced by waiver of subrogation wording.

A certificate of insurance shall be furnished to PacifiCorp confirming the issuance of such insurance prior to commencement of Work by Lessee. Lessee shall not cancel without (i) ten (10) calendar days prior written Notice to PacifiCorp if canceled for nonpayment of premium; or (ii) thirty (30) calendar days prior written Notice to PacifiCorp if canceled for any other reason. Lack of notification shall be considered a material breach of this Contract.

Lessee shall require subcontractors who perform Work at the Property to carry liability insurance (auto, commercial general liability and excess) and workers' compensation/employer's liability insurance commensurate with their respective scopes of work. Lessee shall remain responsible for any claims, lawsuits, losses and expenses including defense costs that exceed any of its subcontractors' insurance limits or for uninsured claims or losses.

14 Indemnification.

14.1 Indemnity Claims. Lessee shall indemnify, protect, and hold harmless Lessor and its directors, officers, employees and agents (hereinafter collectively "Lessor Indemnified Parties") against and from any and all claims, demands, suits, losses, costs and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses, brought or made against or incurred by the Lessor Indemnified Parties resulting from, arising out of, or in any way connected with any act, omission, fault or negligence of Lessee, its employees, agents, licensees, representatives or contractors, their employees, agents or representatives in the performance or nonperformance of Lessee's obligations under this Lease or Lessee's breach of a material term in this Lease, except to the extent that such claim, demand, loss, cause of action, or costs arises from Lessor's gross negligence or willful misconduct.

14.2 Brokerage Indemnity. If either party is represented by a real estate broker in connection with this Lease, that party shall be fully responsible for any fee due such broker and shall hold the other party hereto harmless from any claims for commission or fee by such broker.

15 Notices.

Except as specifically provided elsewhere in this Lease for telephonic notice, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving written notice of the change in the manner set forth herein.

If to Lessor:
PacifiCorp
Property Management
1407 W. North Temple, Suite 110
Salt Lake City, UT 84116

If to Lessee:
T-Mobile USA, Inc.
Attn: Lease Compliance / SL01635A
12920 SE 38th Street
Bellevue, WA 98006

With a copy to:
Rocky Mountain Power
General Counsel
1407 W. North Temple, Suite 320
Salt Lake City, UT 84116

16 Authority and Quiet Enjoyment.

16.1 Authority. Each Party covenants and warrants to the other that it has full right, power, and authority to execute this Lease and that the execution and performance thereof will not violate any applicable laws, ordinances or covenants, or the provisions of any agreement binding on that party. Each party represents that its representative who executes this Lease has been duly authorized to do so by appropriate corporate action.

16.2 Quiet Enjoyment. Lessor covenants and warrants to Lessee that it has full right, power and authority to execute this Lease, and that, subject to the provisions of this Lease, at all times during the term of this Lease, Lessee's quiet enjoyment of Pole Space shall not be disturbed as long as Lessee is not in default in the performance of its obligations under the terms of the Lease. Lessor will take no action not expressly permitted under the terms of this Lease that will interfere with Lessee's use of the Pole Space, nor will Lessor fail to take any action or perform any obligation necessary to fulfill Lessor's aforesaid covenant of quiet enjoyment in favor of Lessee.

17 Consent and Subordination.

17.1 Consent. This Lease is subject to any restrictions or other terms or conditions contained in any underlying ground lease, license, or permit, and Lessee acknowledges and agrees to commit no act or omission which would constitute a default under any such ground lease, license, or permit. Lessor shall provide a copy of any applicable ground lease, license, or permit to Lessee upon request prior to the full execution of this Lease.

17.2 Subordination. Lessee acknowledges and agrees that this Lease is subject and subordinate

at all times to:

- i. the lien of all mortgages and deeds of trust securing any amount or amounts whatsoever which may now exist or hereafter be placed on or against any Pole or against Lessor's interest therein, and
- ii. any underlying ground lease, license, or permit, all without the necessity of having further instruments executed by Lessee to effect such subordination. Lessor agrees to use its best efforts to obtain a non-disturbance agreement, at Lessee's expense, from the holders of any such lien, ground lease, and license or permit if required for Lessee to engage in Permitted Uses.

18 Environmental Laws.

18.1 Terms. As used herein, the term "Environmental Laws" shall mean any and all local, state, or federal statutes, regulations, or ordinances pertaining to the environment or natural resources. As used herein, the term "Hazardous Substance(s)" shall mean any toxic or hazardous waste or substance that is regulated by Environmental Laws.

18.2 Compliance with Environmental Laws. Lessor and Lessee each represent, warrant and agree that they will conduct their activities on and about the Pole in compliance with all applicable Environmental Laws.

18.3 Indemnification. Lessor represents that it has no knowledge of any Hazardous Substances on the Property that are in violation of any Environmental Laws. Each Party agrees to defend, indemnify and hold harmless the other Party and its affiliates from and against any and all claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorney's fees (at trial and appeal) that the indemnified party may suffer due to the release of any Hazardous Substance on the Property or the migration of any Hazardous Substance to other properties or released into the environment, that are caused by or result from the indemnifying party's activities on such Property. Indemnification herein specifically includes costs incurred in connection with any investigation of conditions or any cleanup, remediation, removal or restoration work required by any Governmental Authority on such Property. The provisions of this Section will survive the expiration or termination of this Lease.

19 Subleasing and Assignment.

19.1 Lessee's Rights. Without the prior written consent of Lessor, which shall not be unreasonably withheld, delayed, or conditioned, Lessee shall not assign this Lease, or any of its rights with respect thereto, including without limitation any assignment to a third party of any radio frequency used by Lessee on the Pole Space, nor sublet any Pole Space, nor relinquish possession of any Pole Space or any part thereof nor permit any other person to use any Pole Space or any part thereof. Any assignee shall assume Lessee's obligations under this Lease in writing. In the event there is an approval for transfer, assignment or sublet, Lessee agrees to pay Lessor a processing and review fee of Two Thousand Dollars (\$2,000.00). Notwithstanding the foregoing however, Lessee may, without the consent of Lessor, assign or transfer its rights arising under this Lease to any corporation, partnership or other entity which is: (i) controlled by, controlling or under common control with Lessee, (ii) shall merge or consolidate with or into

21.4 Applicable Law. In the event that legal action is required to enforce this Lease or any remedy pursuant thereto, this Lease shall be interpreted and enforced according to the laws of the jurisdiction where the Pole is located.

21.5 Force Majeure. Except for the late payment of monies due under this Lease, neither Party shall be deemed in default hereunder for any delay or failure in the performance of its obligations to the extent that such inability shall be due to causes beyond the control of the Party seeking to invoke this provision, including, but not limited to, the following: (a) the operation and effect of any rules, regulations and orders promulgated by any regulatory commission, municipality, or governmental agency of the United States of America or any state, territory or political subdivision thereof; (b) restraining order, injunction or similar decree of any court; (C) war; (d) earthquake, fire or flood; (e) act of God; (f) civil disturbance; (g) strikes or boycotts; or (h) major equipment breakdown or failure. The Party claiming Force Majeure under this provision shall provide prompt written notice to the other Party and shall make every reasonable attempt to mitigate or remedy the cause thereof as diligently and expeditiously as possible. Time periods for performance obligations of Parties herein shall be extended for the period during which Force Majeure was in effect.

21.6 Attorney Fees and Costs. The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney fees and court costs, including fees and costs incurred through any applicable appeal process.

21.7 Agreement Construction. The Parties hereto acknowledge and agree that each has been represented by counsel and that each of the Parties has participated in the drafting of this Lease. Accordingly, it is the intention and agreement of the Parties hereto that the language, terms and conditions of this Lease is not to be construed in any way against or in favor of any party by reason of the responsibilities in connection with the preparation of this Lease. In construction of this Lease, the singular includes the plural, and the plural the singular, and words in the present tense include the future tense, as the context requires; section headings are for convenience only, and shall not be considered in construction of the text.

21.8 Counterparts. This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original instrument, but all of which together shall constitute one agreement.

21.9 Entire Agreement. This Lease shall constitute the entire agreement and understanding of the Parties with respect to the subject matter thereof and supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Lease must be in writing and executed by the authorized representatives of both Parties.

21.10 Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the Parties, their respective successors and permitted assigns.

21.11 Confidentiality. Neither Party shall reveal or disclose to any person or entity any of the terms or provisions of this Lease or any information provided by the other Party regarding Improvements or Equipment except (a) as expressly provided in this Lease, (b) as may be consented to in writing by

the other Party as determined within its sole discretion, (C) to its employees, agents and representatives to the extent necessary to perform its obligations hereunder, (d) to the extent required by law or the rules of any regulatory agency pursuant to a request under such laws or Mes, or (C) if compelled by order of any court or governmental agency of competent jurisdiction, provided, however, that with respect to (d) and (e) above, the disclosing Party will, before making any disclosure, give the non-disclosing Party prompt prior written notice of any disclosure request, or court or governmental agency ordered disclosure, and will, to the extent allowed by law, give the non-disclosing Party an opportunity to object to and seek to prevent or limit such disclosure; provided, howSver, that an inadvertent disclosure shall not constitute a violation of this covenant.

21.12. WAIVER OF JURY TRIAL

To the fullest extent permitted by law, each of the Parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out oG under or in connection with this Lease. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot or has not been waived.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date last written below (the "Execution Date").

Lessor: PacifiCorp

Lessee: T-Mobile West LLC

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Printed: Danny Bazerman

Title: kj sg~a'3;~

Title: Area Director, Engineering & Operations

Date: %/7//""7

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EXHIBIT A

DESCRIPTION OF POLE AND POLE SPACE

Pole:

The Pole is located at 922 South Emery Ave, Salt Lake City, UT 84104, currently identified as Rocky Mountain Power facility point #: 112605

Towers or Poles: Lessor to replace the existing pole and install one (1) 60' pole as depicted in the attached construction drawings.

Pole Space:

Lessee may install Lessee Equipment on the Pole as shown in the attached construction drawings.

EXHIBIT B

LESSEE'S PERMITTED USES

Lessee may use the following Lessee Equipment on the Pole Space: (Describe transmitters and receivers and other personal property)

Type	Number & Description	Frequencies
Antennas	6 - Panel Antennas	1900 MHz PCS
Tower Mounted Amplifiers		1700/2100 MHz AWS 700 MHz Lower Block A
Microwave Dish		
BTS Unit		
Shelter		
Other	I - Hybrid Line	

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201 ,E MUV Sbvet, SMte2400
SaULake City, ITT 84111
801-2204734 ojgke
jeMchwu%µcincorp.com

RE: PacifiCorp Delegation of Signhig Authority

To whom it may concern:

I am responding to your request for confirmation that corporate authority has been properly delegated to Rocky Mountain Power employees who can act on behalf of PacifiCorp.

The legal authority of PacifiCorp to bind the Corporation is granted pursuant to state law, the articles of incorporation and bylaws of the Company, and by authority delegated from Hathaway Energy Company. This authority is further delegated to employees of Rocky Mountain Power pursuant to PacifiCorp's Corporate Governance and Approval Process Policy.

Based upon the foregoing, the necessary authority to sign and enter into right-of-way easements, leases, and other similar agreements have been delegated to the business unit level. Accordingly, the following employees may sign on behalf of PacifiCorp, an Oregon corporation, d/b/a Rocky Mountain Power, with annual payments.

- Paul Radakovich, Vice President, Operations
- Doug Bennion, Vice President Engineering Services & Asset Management
- Sharon Seppel Managing Director, Construction
- Todd Jewsen, Director, MAH Grid Transmission
- Rick Rigby, Director, Transmission Services
- Kim Garrick, Manager, Right of Way Services
- Ron Olsen, Manager, Property Records & Permitting
- F. W. Dudley, N. K. Engle, Shawn G. Mutt, Janke, U. & L. Louder, D. Lynn Rodeback, Brian Young & B. M. Knoles, and Mike Wolf, Property Agent(s)

This authority may be updated from time to time as business needs warrant or when employees transfer from the positions listed above.

Should you have any questions or comments regarding this matter, please do not hesitate to contact me at (801) 220-4734. Thank you in advance,

Sincerely,

Jc
Vice President and General Counsel

cc: HCidiGondan
~McKay

ATTACHMENT D: ANTENNA/ELECTRICAL BOX ZONING STANDARDS

21A.40.090.E.2.8 — Zoning requirements for utility pole mounted antennas.

g. Utility Pole Mounted Antenna: Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards:

Regulation	Proposal	Compliance
(I) Antennas: (A) The antennas shall be located either on an existing utility pole or on a replacement pole in the public right-of-way, or in a rear yard utility easement.	The antenna array will be located on an existing Rocky Mountain Power pole that's located in the public right-of-way in front of a residential property. Rocky Mountain Power also recently indicated that they plan on removing the wooden utility pole next to the subject pole due to community concern.	Complies
(B) On an existing pole, the antennas shall not extend more than ten feet (10') above the top of the pole.	As illustrated on Sheet A-3 of the applicant's plan set, the antennas will not be more than 10 feet above the existing 60-foot tall pole.	Complies
(C) The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use.	The diameter of the proposed antenna array is 39 inches.	Complies per conditional use approval
(D) Antennas located in the public right-of-way shall be a permitted use and shall comply with the standards listed above.	The antenna array will be located in a public-right-of-way.	Complies
(E) Conditional use approval is required for antennas located in a rear yard utility easement in all residential, CN Neighborhood Commercial, PL Public Lands, PL-2 Public Lands, CB Community Business, I Institutional, and OS Open Space Zoning Districts. Antennas located in a rear yard utility easement in all other zoning districts shall be a permitted use and shall comply with the standards listed above.	The antenna array is not located in a rear yard utility easement.	Complies
(2) General Provisions: (A) The application shall include the signature of the	T-Mobile has provided a lease agreement with PacifiCorp (owner of the	Complies

authorized agent of the owner of the utility pole.	utility pole), which allows them to lease space on the existing pole.	
(B) Antennas and equipment boxes on the utility poles shall be painted to match the pole to which it is attached to minimize visual impacts.	The applicant has indicated that the antennas and equipment boxes on the utility poles will be painted to match the existing pole or in such a manner to best reduce their visual impact.	Complies per condition of approval.
(C) Generators or noise producing venting systems shall not be used.	No generators or noise venting systems are being proposed.	Complies
(D) Lighting for aircraft is prohibited except where required by Federal law.	No lighting for aircraft is being proposed.	Complies
(E) Electrical and utility cables between the utility pole and electrical boxes shall be placed underground.	No overhead cables are being proposed.	Complies
(F) Facilities in the public right-of-way shall be subject to any applicable franchise fees or lease agreements required by the City.	T-Mobile is required to obtain an agreement with Salt Lake City to locate the wireless facility in the public right-of-way before the building permit can be issued.	Complies per condition of approval. The public right-of-way agreement can be completed during the building permit phase of this process.

21A.4o.o9o.E.3.b - Standards for (Antenna) Electrical Equipment Located On Private Property:

Regulation	Proposal	Compliance
Electrical equipment shall be located in the rear yard, interior side yard, or within the buildable area on a given parcel. In the case of a parcel with an existing building, the electrical equipment shall not be located between the front and/or corner facades of the building and the street.	The existing utility boxes are located partially in the rear yard and partially in the interior side yard of the subject property.	Complies
Electrical equipment located in a residential zoning district, shall not exceed a width of four feet (4'), a depth of three feet (3'), or a height of four feet (4') to be considered a permitted use.	The equipment is not located between the front/corner facade of the house and the street. Three of the five existing boxes exceed some of these dimensions as follows: • Box 1 - 2'6" in width; 3' in depth; 6' in height	Complies per special exception approval.

Electrical equipment exceeding the dimensions listed above shall be reviewed administratively as a special exception per chapter 21A.52 of this title.

- Box 2 - 4'3" in width; 2' 3.5" in depth; 5'6" in height
- " Box 3 - 2' 1.5" in width; 10.5" in depth; 5' in height

The electrical equipment shall be subject to the maximum lot coverage requirements in the underlying zoning district.

The maximum building coverage allowed in the R-i-5,000 zoning district is 40%.

The lot is approximately 10,010 square feet and the total lot coverage including the footprint of the equipment pad is approximately 15%. Pad is approximately 24' X 5' or 120 square feet.

Complies

ATTACHMENT E: CONDITIONAL USE STANDARDS

21a.54.08o.A Approval Standards: A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:

1. The use complies with applicable provisions of this title;

Analysis: The subject site is located in the R-1-5,000: Single-Family Residential zoning district. Per Section 21A.40.090.E of the Zoning Ordinance, utility pole mounted antennas are permitted in any zoning district subject to meeting all of the other listed requirements. These requirements specify that an array on a utility pole with a diameter of 30 inches or less is permitted outright; however, if the diameter is greater than 30 inches, it must be processed as a conditional use.

This intent of limiting the diameter this way allows for some oversight of the size of the array so that it doesn't become a visual nuisance or structural hazard. The diameter of the proposed antenna array is approximately 39 inches - 9 inches greater than what would be permitted by right - which would not make it an extreme visual nuisance or structurally unsound as opposed to what's permitted by right.

Finding: The proposal complies with the applicable provisions of the Salt Lake City Zoning Ordinance by going through the conditional use process.

2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

Analysis: Surrounding the subject site are single-family homes to the north and west, a large open lot to the east, and the g-Line Trail and an elementary school to the south. A wetland preserve is located a few blocks to the east of the site. There are also multiple power poles located on park strips within this neighborhood and the utility pole on which the array will be mounted is existing.

Finding: Staff finds that wireless antennas are commonly found on utility poles in both commercial and residential areas of the city, the size of the existing array is being reduced to have less of a visual impact on its surroundings and, in general, is compatible with the surrounding uses in the area. While the community raised concern regarding the antenna array's environmental impacts on its surroundings, federal law limits local governments from regulating wireless facilities based on the environmental effects of radio frequency emissions. Additional conditions are being recommended to paint the proposed antenna array to match the pole or in such a manner to best reduce its visual impact and completely screen the associated utility equipment from the g-Line Trail.

3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and

Analysis: The Westside Master Plan is silent on matters related to wireless telecommunication equipment; however, utility-pole mounted antennas are permitted uses in all zoning districts. Because this specific proposal must be reviewed as a conditional use, if the proposal meets all of the conditions and standards listed, it should be considered as meeting this standard.

Finding: The project does not conflict the Westside Master Plan.

4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions (refer to Detrimental Impacts Chart below for details).

21a.54.080.B Detrimental Effects Determination

In analyzing the anticipated detrimental effects of a proposed use, the planning commission shall determine compliance with each of the following:

Criteria	Finding	Rationale
1. This title specifically authorizes the use where it is located	Complies	Utility-pole mounted antenna arrays with a diameter larger than 30 inches wide are a permitted in the R-1-5,000 zoning district with conditional use approval.
2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps	Complies	The use on the lot associated with the right-of-way where the utility pole is located is a single-family home, which will remain the same no matter the antenna installation. Utility poles and antennas are located in both residential and commercial areas of the city. The Westside Master Plan is silent on matters related to wireless telecommunication equipment.
3. The use is well-suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area	Generally complies	Surrounding the subject site are single-family homes to the north and west, and large open lot to the east, and an elementary school and the 9-Line Trail to the south. Though highly visible, the utility pole itself is located in a park strip where utility poles are typically found in both commercial and residential areas of the city. Wireless antennas are also common in residential neighborhoods as they are needed to provide cell service to surrounding residents.
4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered	Generally complies	The antenna array will be highly visible. However, the utility pole is existing and the diameter of the proposed array is 9 inches greater than what would normally be permitted by right without conditional use approval. These additional 9 inches wouldn't significantly alter the array's appearance from the ground.
5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows	Complies	The proposal will have no traffic impact.
6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic	Complies	The proposal will have no traffic impact.
7. The site is designed to enable access and circulation for pedestrian and bicycles	Complies	The proposal will have no traffic impact.
8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street	Complies	The proposal will have no traffic impact.
9. The location and design of off-street parking complies with applicable standards of this code	Complies	The proposal will not require additional off-street parking.
10. Utility capacity is sufficient to support the use at normal service levels	Complies	The proposal will not require additional utility service.
11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts	Complies	In response to community feedback and because the existing electrical equipment associated with the antenna array is highly visible from the 9-Line public trail, a condition is being imposed that the utility equipment be completely screened. This should help to mitigate any negative visual impact created by the equipment, especially given its placement off of a public trail.
12. The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke	Complies	The proposal will not significantly impact the environment or introduce any hazard. While the community has raised concerns regarding the antenna array's environmental impacts on surrounding residents as well as the nearby wetland preserve and bike trail in terms of radiation, federal law limits local governments from regulating wireless facilities based on the environmental effects of radio frequency emissions. The U.S. Fish and Wildlife Service also promotes collocating communication equipment on existing structures like

		utility poles to reduce the number of larger communication towers across the landscape.
13. The hours of operation and delivery of the use are compatible with surrounding uses	Complies	The proposal will not have operating hours and is an unmanned use.
14. Signs and lighting are compatible with, and do not negatively impact surrounding uses	Complies	The proposal will not require signs and lighting.
15. The proposed use does not undermine preservation of historic resources and structures	Complies	The site is outside of any designated historic district, and therefore not subject to his criteria.

Finding: In analyzing the anticipated detrimental effects of the proposed use, Staff finds that the request complies with the criteria listed above.

Section 21A.40.090.E.9 Additional Conditional Use Requirements (for antennas)

In addition to conditional use standards outlined in Section 21A.54 (above) of the zoning ordinance; the following shall be considered by the Planning Commission:

- a. Compatibility of the proposed structure with the height and mass of existing buildings and utility structures;
- b. Whether collocation of the antenna on the other existing structures in the same vicinity such as other towers, buildings, water towers, utility poles, etc., is possible without significantly impacting antenna transmission or reception;
- c. The location of the antenna in relation to existing vegetation, topography and buildings to obtain the best visual screening;
- d. Whether the spacing between monopoles and lattice towers creates detrimental impacts to adjoining properties.

Analysis: The utility pole is existing and similar in height to other utility poles in the city. Wireless antennas and utility poles are common in residential neighborhoods where they are needed to provide services to surrounding residents. The applicant has also worked to make the array itself smaller and the existing electrical equipment is setback from the public right-of-way, fenced in and will be screened.

Finding: This project satisfies the additional requirements of Section 21A.40.090.E.9.

ATTACHMENT F: SPECIAL EXCEPTION STANDARDS

21a.52.06o: General Standards and Considerations for Special Exceptions: No application for a Special Exception shall be approved unless the planning commission or the planning director determines that the proposed Special Exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain Special Exceptions.

<p>b . 00 0</p> <p>A. Compliance with Zoning Ordinance and District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.</p>	<p>a .</p> <p>Complies</p>	<p>p . 00 .</p> <p>Utility boxes associated with antennas are allowed on private property per the Zoning Ordinance under a certain size and with special exception approval over this size. More generally, utility boxes are found in residential areas in order to serve the surrounding residents.</p>
<p>B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.</p>	<p>Complies</p>	<p>It cannot be concluded that the utility boxes located on private property would substantially diminish the value of the subject property or surrounding properties. The equipment is setback on the lot and is not visible from the street.</p>
<p>C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.</p>	<p>Complies per condition to screen the equipment</p>	<p>It cannot be concluded that the utility boxes located on private property would have a material adverse effect on the character of the area — especially per the condition to completely screen the equipment - or public health, safety and general welfare. Utility boxes can be found in residential areas in order to provide different services to surrounding residents.</p>
<p>D. Compatible with Surrounding Development: The proposed Special Exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.</p>	<p>Complies per condition to screen the equipment</p>	<p>The existing utility boxes are clustered in a small area towards the rear of a residential lot. They are painted to match the accessory structure that they sit up against and will be completely screened from the g-Line Trail per the proposed condition. The utility boxes are at maximum 2 feet taller than what would be permitted on private property without special exception approval.</p>
<p>E. No Destruction of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.</p>	<p>Complies per condition to screen the equipment</p>	<p>The utility boxes are set back towards the rear of the property and will not damage natural, historic, or significant features on the lot. The equipment will also be completely screened from the g-Line Trail per the proposed condition.</p>
<p>F. No Material Pollution of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.</p>	<p>Complies</p>	<p>The utility boxes do not create any pollution.</p>
<p>G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.</p>	<p>Complies</p>	<p>In addition to the general special exception standards, the two ground mounted utility boxes must comply with the additional standards within Section 21A.40.16O.F.2 of the Code listed below.</p>

21A.40.16O.F.2: Additional Special Exception Standards for Ground Mounted Utility Boxes

Two of the three oversized utilityboxes are ground mounted and must meet the standards below in addition to the general special exception standards.

Regulation	Proposal	Compliance
a. Evidence that the existing ground mounted utility box location and/or size are within a pattern that allowing an additional or larger ground mounted utility box will not create a significant impact on the character of the area.	Three of the ground mounted utility boxes are approximately 16" - 2' taller and one of the boxes is approximately 3" wider than the size boxes that are permitted on private property without special exception approval. This difference in size does not create a significant negative impact on the character of the area. The location of the boxes (interior side/rear yard of the private property) is permitted and, as stated in the Code, the preferred location for this type of equipment is "in a location not readily visible from the street." A condition is also being imposed to completely screen the equipment from the g-Line Trail.	Complies per condition to screen the equipment
b. Evidence submitted that shows another location is not practical to service the subject area.	The applicant has stated that alternative locations for these utility boxes are not reasonably feasible because of the lease agreement in place with the private property owner. The owner chose this location for the equipment so it was not readily visible from the street. The equipment must also be within a certain distance of the antenna array to function — see applicant's location analysis for more detail.	Complies - Rear yard/side yard are permitted locations for antenna electrical boxes
c. Sufficiently demonstrates the reason that the larger cabinet is necessary.	The applicant has stated that the three larger cabinets are necessary as they are the industry standard size needed to function properly. The boxes also protect the equipment from weather and theft - see application materials for more detail.	Complies
d. Demonstrates that the subject block face location is the only feasible location for the ground mounted utility box based on technical or physical constraints.	This standard does not apply as the utility boxes are located in a rear yard approximately 100 feet from the street and not on a block face.	Complies - the boxes are not located on a block face
e. Ground mounted utility boxes are spaced in such a manner as to limit the visual impact of the box when viewed from the street or an adjacent property.	The utility boxes are setback approximately 100 feet from the front of the lot and are not readily visible from the street. The boxes can be seen from the g-Line Trail, but will be completely screened per the proposed condition. The equipment is also painted a similar gray color to the accessory building that the sit against.	Complies per condition to screen the equipment
f. The location will not obstruct access to other installed utility facilities.	The equipment is located on private property and does not obstruct access to other utility facilities.	Complies
g. The additional cabinet is compatible in design and size with the existing ground mounted utility boxes in the area.	The utility boxes are at maximum 2 feet taller than what would be permitted on private property without special exception approval. The applicant has stated that the utilityboxes are compatible in design and size with other antenna equipment that has been installed in the city.	Complies

ATTACHMENT G: PUBLIC PROCESS AND COMMENTS

Public Notice and Comments

The following is a list of public notices that were sent related to the proposed project:

- Notice of the project and request for comments was sent to the Chairs of the Poplar Grove and Glendale Community Councils on August 1, 2018. These Community Councils did not request to have the applicant and staff attend a regular meeting to explain the proposal (see notice emails attached).
- An early notification letter explaining the proposal to property owners and tenants within 300 feet of the site was sent on August 2, 2018 (see letter and mailing list attached).
- A follow-up email was sent to the Chairs of the Poplar Grove and Glendale Community Councils on November 1, 2018 asking if they had any comments regarding the proposal. No comments were received.
- Notice of the open house was sent on December 14, 2018. Multiple public comments were received in response to the open house notice (see public comments submitted to record attached).
- Notice of the special exception for the electrical boxes was mailed on February 21, 2019 to the property owner, all abutting properties and the property across the street.
- After a community member expressed concern about the community councils not having sufficient notice regarding the project, the applicant elected to attend the Poplar Grove's Community Council meeting on February 27, 2019 in an effort to address any outstanding questions and/or concerns.

Notice of the public hearing for the proposal included:

- The public hearing notice was mailed on March 14, 2019
- The public notice was posted on City and State websites and Planning Division list serve on March 14, 2019
- The public hearing notice sign was posted on the property on March 14, 2019.

Public Input:

A public open house was held on January 7, 2019 at the City and County Building. Three residents attended from the Poplar Grove Neighborhood Alliance. The applicant representing T-Mobile explained that the existing antenna array was mistakenly built much larger than what the City had approved and they are now working to correct this. The residents expressed concern regarding the antennas being located in a residential area. They also questioned the amount of time it has taken for the City to enforce upon the noncomplying antenna and were generally unhappy with the lack of communication between the City and the community. The City does acknowledge there was miscommunication and is working to correct this.

The applicant also attended the Poplar Grove Community Council meeting on February 27, 2019 where similar issues were raised as noted in the Key Considerations section of this report. A motion was made that the Poplar Grove Community Council would not support the proposal unless the size of the array was reduced to 30 inches in diameter that is permitted without conditional use approval. It appeared that the majority of attendees at the meeting were in favor of this motion.

After this meeting, the applicant did look back into reducing the diameter of the array to 30 inches. Ultimately, he indicated that with the current technology and even with removing one of the three antennas, the diameter would still be larger than 30 inches.

All written public comments, including a cell tower fact sheet created by the community and submitted at the January 7 open house, have been attached below.

From: parisi, Lauren
To: Poplar Grove CC Chair; "Dane.hess@slcschools.org"
Subject: RE: Notice of Planning Petition - Conditional Use at 922 S. Emery Street
Date: Thursday, November 1, 2018 12:44:00 PM

Hi Mr. Farris and Mr. Hess,

i just wanted to provide you both with an update regarding this project and let you know that the conditional use is scheduled to be reviewed at an administrative hearing on November 15, 2018. You can find the meeting agenda here:
<http://www.slcdqcs.com/Planning/AdminHearings/2Q18/agn1115.pdf>

The applicants have been working to reduce the size of the array since they initially submitted their conditional use application and the diameter now measures 39" and they're also proposing to have 3 antennas instead of 6. If you have any comments please feel free to send them my way and I will attach them to the staff report for the administrative hearing officer to consider.

Best,

LAUREN PARISI
Principal Planner

PLANNING DIVISION
DEPARTMENT OF COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-7750

<https://www.slc.gov/planning/>

From: Parisi, Lauren
Sent: Wednesday, August 1, 2018 4:28 PM
To: Poplar Grove CC Chair <poplargrovecouncil@gmail.com>; 'Dane.hess@slcschools.org' <Dane.hess@slcschools.org>
subject: Notice of Planning Petition - Conditional Use at 922 S. Emery Street

Dear Mr. Faris and Mr. Hess,

The Planning Division has received an application for a Conditional Use to accommodate replacement antennas that are larger than 30 inches in diameter on a utility pole in the public right-of-way of 922 S. Emery Street. I have attached the following information for your review:

1. A formal letter requesting your community council's input
2. The petitioner's initial plan set

As a recognized community organization, you have 45 days from the date of this e-mail to provide comments on the proposed petition. The 45 day period ends on September 17,

2018. Please let me know if you intend to have the petitioner present at one of your community council meetings, including the date and time of the meeting, and I will coordinate with them.

Of course, feel free to contact me with any questions you may have.

Best,

LAUREN PARISI
Principal Planner

PLANNING DIVISION
DEPARTMENT OF COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-7750

<https://www.slc.gov/>

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Recognized Organization Input Notification Conditional Use - Size of Antenna Array

TO: Dennis Faris, Chair, Poplar Grove Community Council
Dane Hess, Chair, Glendale Community Council
FROM: Lauren Parisi, Principal Planner, Salt Lake City Planning Division
(lauren.parisi@slcgov.com or 801-535-7226)
DATE: August 1, 2018
RE: PLNPCM2018-OO585 - Conditional Use for Size of Antenna Array

The Planning Division has received the following request and is notifying your organization to solicit comments on the proposal:

Request Type: Conditional Use

Location: 922 S. Emery Street (in the public right-of-way)

Zone: R-1-5,000: Single-Family Residential

Request Description:

Kalab Cox, representing T-Mobile, has initiated a petition for a Conditional Use in order to increase the size — or the diameter in particular - of an existing antenna array mounted on a utility pole from 30 inches to 45 inches in the public right-of-way at 922 S. Emery Street. Salt Lake City's Zoning Code allows antenna arrays mounted on utility poles that have a diameter of 30 inches or less, but anything larger is required to be reviewed as a conditional use per the language below. The number of existing antennas will not change (six total), but three of the replacement antennas will be slightly larger to accommodate faster data speeds/more data capacity to surrounding cell customers. The subject property is located in the R-1-5,000: Single-Family Residential zoning district where utility pole-mounted antennas are allowed in the public right-of-way.

Section 21A.40.O9O.E.2.9 regulates utility pole mounted antennae as follows:

g. Utility Pole Mounted Antenna: Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards:

(I) Antennas:

(A) The antennas shall be located either on an existing utility pole or on a replacement pole in the public right-of-way, or in a rear yard utility easement.

(B) On an existing pole, the antennas shall not extend more than ten feet (10') above the top of the pole.

(C) The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use.

(D) Antennas located in the public right-of-way shall be a permitted use and shall comply with the standards listed above.

(E) Conditional use approval is required for antennas located in a rear yard utility easement in all residential, CN Neighborhood Commercial, PL Public Lands, PL-2 Public Lands, CB Community Business, I Institutional, and OS Open Space Zoning Districts. Antennas located in a rear yard utility easement in all other zoning districts shall be a permitted use and shall comply with the standards listed above.

I have also attached the plan set submitted by the applicant and a map of the project area to this email.

Request for Input from Your Recognized Organization

As part of this process, the applicant is required to solicit comments from Recognized Organizations. The purpose of the Recognized Organization review is to inform the community of the project and solicit comments/concerns they have with the project. The Recognized Organization may also take a vote to determine whether there is support for the project, but this is not required.

Per City Code 2.6O.05O - The recognized community organization chair(s) have forty five (45) days to provide comments, from the date the notice was sent. A public hearing will not be held, nor will a final decision be made about the project within the forty five (45) day notice period. This notice period ends on the following day:

September 17, 2018

Please contact me to let me know if you would like the applicant to attend and present their proposal at one of your meetings within this 45 day period. Please indicate the day and time of your meeting and staff will coordinate with the applicant to attend your meeting. Planning staff will also be available at the meeting to answer any questions related to decision standards or the decision making process.

Comment Guidance

Public comments will be received up to the date of the Planning Commission public hearing. However, you should submit your organization's comments within 45 days of receiving this notice in order for those comments to be included in the staff report.

As a Recognized Organization, we ask that you address the following questions in your comments:

- What issues were raised at the meeting and whether any suggestions were made to address the issues.
- The number of persons that attended the meeting (not including those with the applicant or City Staff).
- Whether a vote was taken on the matter and if so, what the vote tally was.

Approval Criteria for the Conditional Use Request

For your reference, the following are criteria that the Administrative Hearing Officer will use to make their decision. The City's technical staff will review the project to ensure it complies with adopted policies and regulations. Input from your organization may be more general in nature but we recommend that you also consider the below approval criteria:

General Conditional Use Standards (2LA.54.08O) —

A. Approval Standards: A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:

1. The use complies with applicable provisions of this title;
2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;
3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and
4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.

B. Detrimental Effects Determination: In analyzing the anticipated detrimental effects of a proposed use, the planning commission, or in the case of administrative conditional uses, the planning director or designee, shall determine compliance with each of the following:

1. This title specifically authorizes the use where it is located;
2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps;
3. The use is well suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area;
4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered;
5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows;
6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, nonmotorized, and pedestrian traffic;
7. The site is designed to enable access and circulation for pedestrian and bicycles;
8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street;
9. The location and design of off street parking complies with applicable standards of this code;
10. Utility capacity is sufficient to support the use at normal service levels;
11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts;
12. The use meets city sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke;
13. The hours of operation and delivery of the use are compatible with surrounding uses;
14. Signs and lighting are compatible with, and do not negatively impact surrounding uses; and
15. The proposed use does not undermine preservation of historic resources and structures.

Additional Conditional Use Standards for Antenna Structures (21A.40.O9O.E.9) —

9. Additional Conditional Use Requirements: In addition to conditional use standards outlined in chapter 21A.54 of this title, the following shall be considered by the Planning Commission:

- a. Compatibility of the proposed structure with the height and mass of existing buildings and utility structures;
- b. Whether collocation of the antenna on the other existing structures in the same vicinity such as other towers, buildings, water towers, utility poles, etc., is possible without significantly impacting antenna transmission or reception;
- c. The location of the antenna in relation to existing vegetation, topography and buildings to obtain the best visual screening;
- d. Whether the spacing between monopoles and lattice towers creates detrimental impacts to adjoining properties.

Comment Submission Address

You may submit your written comments via e-mail to lauren.parisi@slcgov.com or mail them to:

ATTN Lauren Parisi
Salt Lake City Planning Division
451 S State St Rm 406
PO Box 145480
Salt Lake City UT 84114-5480

If you have any questions, please call me at (801) 535-7226 or contact me via e-mail.

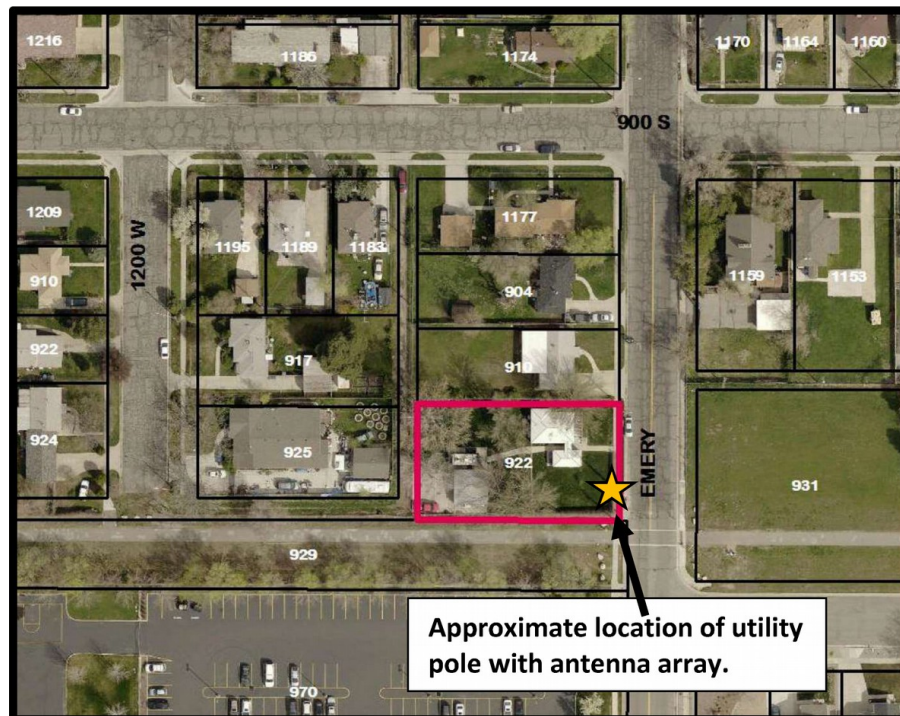
August 2nd, 2018

Early Notification of Proposed Conditional Use

Salt Lake City has received a Conditional Use request from T-Mobile, represented by Kalab Cox, in order to increase the size — or the diameter in particular — of an existing antenna array mounted on a utility pole from 30 inches to 45 inches in the public right-of-way at 922 S. Emery Street. Salt Lake City's Zoning Code allows antenna arrays to be mounted on utility poles if the arrays have a diameter of 30 inches or less, but anything larger is required to be reviewed as a conditional use. The number of existing antennas will not change (six total), but three of the replacement antennas will be slightly larger to accommodate faster data speeds/more data capacity to surrounding cell customers. The subject property is located in the R-1-5,000: Single-Family Residential zoning district where utility pole-mounted antennas are allowed in the public right-of-way.

This type of application requires approval from the Administrative Hearing Officer. A hearing with the Administrative Hearing Officer has not been scheduled - you will be notified of the public hearing at a later date.

The purpose of this notice is to make you aware of the proposed project and let you know how you may obtain more information about/comment on the project early on in the review process. Additionally, notice of this application has been sent to the Poplar Grove and Glendale Community Council Chairs. If you would like additional information, please contact the project planner Lauren Parisi at (801) 535-7226 or lauren.parisi@slcgov.com. (Case number: PLNPCM2018-00585)



V & K INVESTMENTS, LLC
260 S CLUB HOUSE CT
NORTH SALT LAKE, UT 84054

BOARD OF EDUCATION
440 E 100 S
SALT LAKE CITY, UT 84111-1898

MIGOLI, VICTORIA; JT MIGOLI, MANNISULI;
JT
873 S 1200 W
SALT LAKE CITY, UT 84104-2747

RASMUSSEN, MICHAEL S
910 S 1200 W
SALT LAKE CITY, UT 84104-2748

SEIDEL, GUY C
917 S 1200 W
SALT LAKE CITY, UT 84104-2749

DIAZ, MIGUEL & JOSE; JT
922 S 1200 W
SALT LAKE CITY, UT 84104-2748

FRYER, JOHN
924 S 1200 W
SALT LAKE CITY, UT 84104-2748

HEAGREN, DANNY L
925 S 1200 W
SALT LAKE CITY, UT 84104-2749

NEMELKA, MICHAEL & GLORIA; JT
1147 W 900 S
SALT LAKE CITY, UT 84104-2442

WRIGHT, BRYAN & BRYAN DEE; TC
1158 W 900 S
SALT LAKE CITY, UT 84104-2443

PEREZ-GARCIA, DELFINO J
1160 W 900 S
SALT LAKE CITY, UT 84104-2443

DIANSONGI, SAMUEL N & ELIZABETH
BANZUZI; JT
1164 W 900 S
SALT LAKE CITY, UT 84104-2443

FAUSETT, TERRY
1170 W 900 S
SALT LAKE CITY, UT 84104-2443

JACKSON, ROBERT D
1174 W 900 S
SALT LAKE CITY, UT 84104-2445

CORDOVA, LILLIE R
1177 W 900 S
SALT LAKE CITY, UT 84104-2444

RODRIGUEZ, ROSA; 1/2 INT RODRIGUEZ,
ROSA T; 1/2 INT
1183 W 900 S
SALT LAKE CITY, UT 84104-2444

SOTO, DEMETRIO
1186 W 900 S
SALT LAKE CITY, UT 84104-2445

MCCALLISTER, HEATHER LYN & DANIEL LEON;
JT
1189 W 900 S
SALT LAKE CITY, UT 84104-2444

GUSTAFSON, GERRY L
1195 W 900 S
SALT LAKE CITY, UT 84104-2444

MIRANDA, JUAN C & LUCY A; JT
1216 W 900 S
SALT LAKE CITY, UT 84104-2729

DYER, DEREK
2072 E ATKIN AVE
SALT LAKE CITY, UT 84109-1902

PARRISH, REID M; ET AL
866 S EMERY ST
SALT LAKE CITY, UT 84104-2451

TAYLOR, MISTY
904 S EMERY ST
SALT LAKE CITY, UT 84104-2050

HERNANDEZ, XOCHITILIA
910 S EMERY ST
SALT LAKE CITY, UT 84104-2050

GAFFNEY, JOYCE S
922 S EMERY ST
SALT LAKE CITY, UT 84104-2050

LAWLOR, JACOB S
904 S GLENDALE ST
SALT LAKE CITY, UT 84104-2058

BOLTON, MICHELE S
924 S GLENDALE ST
SALT LAKE CITY, UT 84104-2058

MCCREADY, CELIA J
1151 W HAYES AVE
SALT LAKE CITY, UT 84104-2075

WRIGHT, ANDREW SCOTT
1153 W HAYES AVE
SALT LAKE CITY, UT 84104-2075

MC CARTNEY, SALLY D
1155 W HAYES AVE
SALT LAKE CITY, UT 84104-2075

Resident
1159 W 900 S
Salt Lake City, UT 84104-2442

LAMALFA, KYLE
1145 E LAIRD AVE
SALT LAKE CITY, UT 84105-1907

SALT LAKE CITY CORPORATION
PO BOX 145460
SALT LAKE CITY, UT 84114-5460

Resident
926 S GLENDALE ST
Salt Lake City, UT 84104-2058

CRESTVIEW HOLDINGS, LLC
PO BOX 57845
SALT LAKE CITY, UT 84157-0845

BJSP HOLDINGS, LLC
2543 E 9800 S
SANDY, UT 84092-4245

Resident
865 S 1200 W
Salt Lake City, UT 84104-2747

Resident
874 S EMERY ST
Salt Lake City, UT 84104-2451

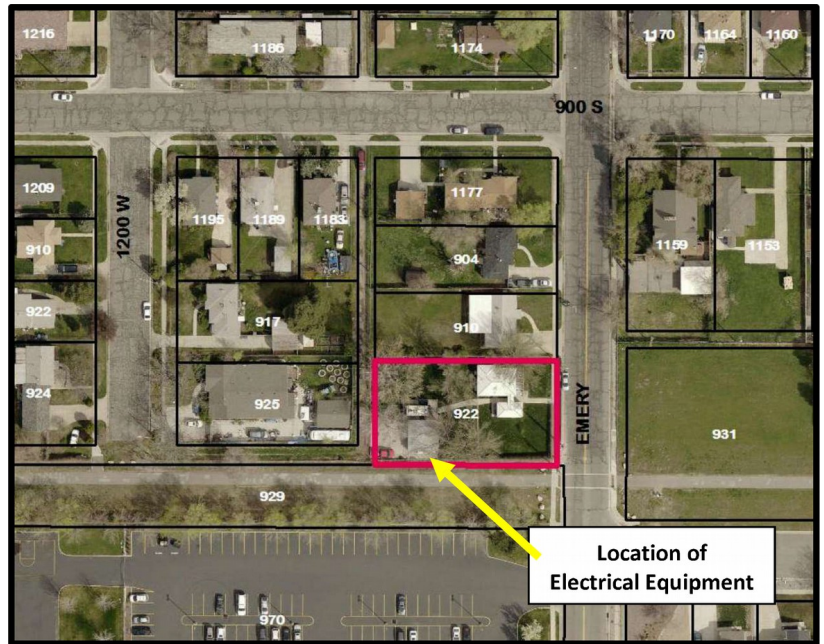
Resident
1209 W 900 S
Salt Lake City, UT 84104-2730

Resident
970 S EMERY ST
Salt Lake City, UT 84104



NOTICE OF APPLICATION
PETITION #PLNPCM2019-OO168
f)22 S. Emery Street
February 21st, 2019

Dear Property Owners and Residents:
Pursuant to Sections 21A.10.020.B and 21A.52.040 of the Salt Lake City Zoning Ordinance, this letter is to provide you notice of an application for a special exception request at 922 S. Emery Street. Kalab Cox, the contractor representing T-Mobile, has requested this exception to allow existing electrical equipment associated with an existing wireless antenna facility to exceed the dimensions of four feet (4') in width, three feet (3') in depth, and four feet (4') in height. Per Section 21A.40.090.E.3.b of the Salt Lake City Zoning Ordinance, electrical equipment that exceeds these dimensions must be processed as a special exception.



Though the equipment is existing, the boxes never received special exception approval. Approval must be granted in order for the existing boxes to remain. Three of the five existing electrical boxes located off of the shed on the southwest corner of the site are exceeding the allotted dimensions. The exact dimensions of each box are labeled on the photo attached. The private property where all of this equipment is located is zoned R-i-5,000: Single-Family Residential.

This application is being reviewed for compliance with the general special exception standards (21A.52.060) and the specific standards for utility boxes (21A.40.160.F.2) listed on the back of this sheet. The Planning Division is required to provide a twelve (12) day public notice period prior to taking action on special exception applications. This specific request will be reviewed by the Planning Commission in conjunction with conditional use request PLNPCM2018-OO585 for a utility pole mounted antenna array on or after March 13th, 2019. Notice of this Planning Commission meeting will be sent in addition to this notice.

ADDITIONAL INFORMATION AND CONTACT:

All application details can be accessed at <https://aca.slcgov.com/citizen>, by selecting the Planning tab, and entering the petition number PLNPCM2019-OO168. If you have any questions, comments or concerns please contact: Lauren Parisi at 801-535-7226 or lauren.parisi@slcgov.com

APPEAL PROCESS:

Any aggrieved party may file an appeal of an administrative decision within 10 days of the decision to the Planning Commission pursuant to Chapter 21A.52.120 of the Zoning Ordinance.

Salt lake City Corporation complies with all ADA guidelines. People with disabilities may make requests for reasonable accommodation no later than 48 hour in advance in order to inspect aforementioned application. Accommodations may include: alternative formats, interpreters, and other auxiliary aids. This is an accessible facility. For questions, or additional information, please contact the Planning Office at 535-7757; TDD 535-6220.

21A.52.06O: General Standards and Considerations for Special Exceptions

No application for a special exception shall be approved unless the planning commission, historic landmark commission, or the planning director determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.

- A. Compliance With Zoning Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.
- B. No Substantial Impairment Of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.
- C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.
- D. Compatible With Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.
- E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.
- F. No Material Pollution Of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.
- G. Compliance With Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

21A.40.16O.F.2: Standards for Utility Boxes

- 2. General Standards And Considerations For Special Exception Review Of Ground Mounted Utility Boxes: No special exception application for a ground mounted utility box shall be approved unless the planning director or the planning director's designee determines that the ground mounted utility box satisfies the applicable standards related to size, spacing and/or location of the following criteria:
 - a. Evidence that the existing ground mounted utility box location and/or size are within a pattern that allowing an additional or larger ground mounted utility box will not create a significant impact on the character of the area.
 - b. Evidence submitted that shows another location is not practical to service the subject area.
 - c. Sufficiently demonstrates the reason that the larger cabinet is necessary.
 - d. Demonstrates that the subject block face location is the only feasible location for the ground mounted utility box based on technical or physical constraints.
 - e. Ground mounted utility boxes are spaced in such a manner as to limit the visual impact of the box when viewed from the street or an adjacent property.
 - f. The location will not obstruct access to other installed utility facilities.
 - g. The additional cabinet is compatible in design and size with the existing ground mounted utility boxes in the area.

act

Cell Tower
03125118

0 Salt Lake City Ordinance 21A.40.090(g)

Utility Pole Mounted Antenna: Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards: (I) Antennas: (A) The antennas shall be located either on an existing utility pole or on a replacement pole in the public right of way...(B) On an existing pole, the antennas shall not extend more than ten feet (10') above the top of the pole. (C) The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use. (D) Antennas located in the public right-of-way shall be a permitted use and shall comply with the standards listed above. (E) Conditional use approval is required for antennas located in all residential

See 21A.40.090 —Monopole regulations in residential zone.

The picture to the right, is the monopole with antenna array that was installed by T-Mobile. The picture at the bottom, shows the street and utility poles prior to the installation of the monopole. The graphic at the bottom right, shows that the monopole was installed in the heart of a residential zone. See reverse for the actual antenna array, with measurement. For more information see video featuring resident Zay

Alvarez at the Facebook group page:

Poplar Grove

Neighborhood Alliance.

Cell Towers & Neighborhoods Don't Mix

3

2018 UPDATE

Time Line

September 2016

T-Mobile installed a Cell Tower at 922 S. Emery St. \SLC, UT.

January 2017

Poplar Grove residents met with the SLC Planning Department.

Residents were referred to SLC Zoning Department.

February 2017

Residents filed a zoning violation complaint with the Zoning Dept.

April 2017

Zoning Department ruled in T-Mobile favor: "no ord. violation".

Zoning Department would not respond to email about appeal.

Planning Director Nick Norris declared there is no violation.

Residents filed a GRAMA request for emails & documents.

Residents received a partial GRAMA response from Planning.

Resident filed a GRAMA appeal with the Mayor's Office.

Mayor's Chief of Staff, Patrick Leary, denied GRAMA appeal.

May 2017

Residents filed a GRAMA appeal with the State Records Comm.

June 2017

Residents' GRAMA appeal was granted.

July 2017

Residents met with City Councilman Andrew Johnston.

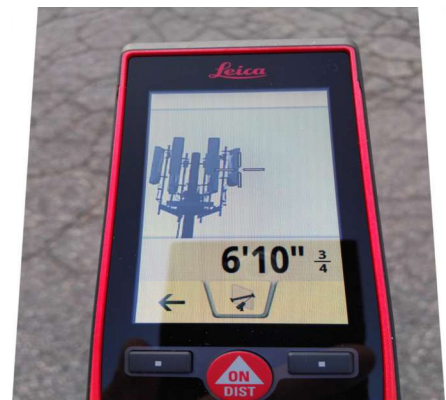
August 2017

Residents received remaining documents from the City.

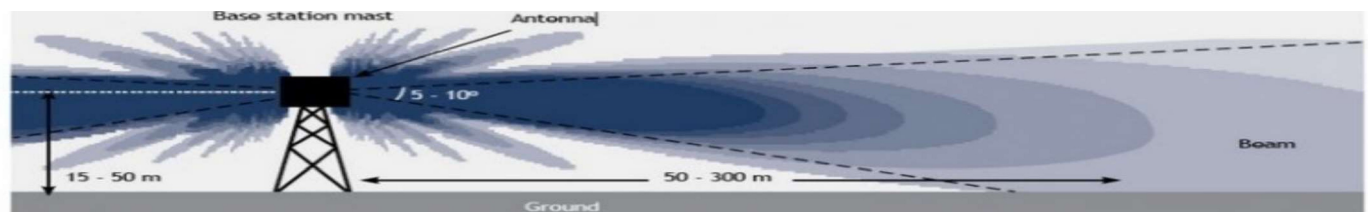
Residents reached out to David Litvack in the Mayor's Office.

Residents are awaiting a response to questions posed to the Mayor's Office and City Council Office on procedural, next steps. In a February 28, 2018, City Council meeting (NW Quad), Planning Director Nick Norris, told the City Council that all "administrative decisions" from his office can be appealed. Residents will meet with Mayor's office on April, 4, 2018.

The picture below displays the laser measurement of the antenna array, width: Six feet, ten inches (6'10")



Radiation Pattern of Cell Tower Antenna



Propagation of "main beam" from antenna mounted on a tower or roof top

People living within 50 to 300 meter radius are in the high radiation zone (dark blue) and are more prone to ill-effects of electromagnetic radiation



DENY T-MOBILE CONDIONAL USE PERMIT

TO: Joel Patterson, Administrative Hearing Officer, Salt Lake City Planning Division
FROM: Poplar Grove Neighborhood Alliance
SUBJECT: PLNPCM2018-00585 - Conditional Use for Utility Pole Mounted Antenna Array
DATE: 23 January 2019

Attachments: Building Permit BLD2014-06707 dated 07/01/15
Poplar Grove Neighborhood Alliance Zoning Complaint dated 01/31/17
Salt Lake City Civil Enforcement Letter to T-Mobile dated 06/08/18

We request that you reject, T-Mobile's Conditional Use application because they have failed to meet the standards for approval, as set forth in Salt Lake City Zoning Ordinance.¹ As indicated in the Staff Report, T-Mobile is requesting the following:

REQUEST: Kalab Cox, representing T-Mobile, is requesting conditional use approval in order to modify an existing antenna array and replace six (6) antennas with three (3) antennas that are located on a utility pole in the public right-of-way at approximately 922 S. Emery Street zoned R-1-5,000: Single-Family Residential. The modified antenna array, including the mounting structure, will have a diameter of approximately 39 inches. Section 21A.40.090.E.2.g of Salt Lake City's Zoning Code allows antenna arrays with a diameter of 30 inches or less to be mounted on utility poles by right, but those with a larger diameter must be reviewed as a conditional use.²

ZONING VIOLATION COMPLAINT

To provide the proper context for this request, we direct your attention to the **Consideration 1: Community Concern** section of the Staff Report which reads as follows:

Upon receiving notice of the open house for this conditional use request which took place on January 7, 2019, community members sent multiple emails expressing concern regarding the antenna array and that it was constructed much larger and had more antennas than what the initial building permit had approved (BLD2014-06707). The community also indicated that they had filed a complaint with Salt Lake City's Civil Enforcement office in January of 2017 and did not understand why it took the amount of time it did to open zoning enforcement case to look into the actual size of the array that was constructed. While it is not completely clear why an enforcement case was not opened up initially, it seems there was confusion and miscommunication across different city departments in terms of the type of structure the antenna was mounted on (monopole vs. utility pole), the standards and conditional use requirements for these different types of antenna mounting structures, and what the building permit plans had approved as opposed to what had been built. Ultimately, Zoning Enforcement Case #HAZ2018-01633 was opened on June 1, 2018 and the applicants confirmed that the antenna array was built with a diameter of 80 inches instead of 30 inches that the initial building permit approved. To rectify this, the applicants applied for this conditional approval in July of 2018 to reconstruct the antenna array to have a diameter of 39 inches instead of 80 inches and 3 antennas instead of 6.³

¹ Salt Lake City Zoning Ordinance 21A.40.090.E

² Lauren Parisi, Principal Planner, Staff Report: PLNPCM2018-00585 – Conditional Use for Utility Pole Mounted Antenna Array

³ *Ibid.*

The Staff Report states:

*Upon receiving notice of the open house for this conditional use request which took place on January 7, 2019, community members sent multiple emails expressing concern regarding the antenna array...*⁴

We want to underscore the fact, that this was not the first time that “members of the community” attempted to address this issue:

*The community also indicated that they had filed a complaint with Salt Lake City’s Civil Enforcement office in January of 2017*⁵

ZONING ENFORCEMENT SUPERVISOR

What is not noted in the Staff Report, is that two years ago, “members of the community” met with Ms. Parisi (author of the Staff Report that is before us today) about this very Cell Tower, as she was staffing the Planning Department counter the morning. We showed her a picture of the Cell Tower and explained that we were concerned about its placement in the heart of our community with no prior notice given to the community. Ms. Parisi looked up the permits for that area and advised us that T-Mobile had applied for two separate permits to install the antenna array and that one was “expired”, and the other was “voided”. We were instructed to file a complaint with Zoning Enforcement because T-Mobile did not obtain permit to install a “monopole” with “an antenna array of that size”.⁶ On January 31, 2017, “members of the community” filed a complaint with Mr. Scott Mikkelsen, Zoning Supervisor -Salt Lake City Civil Enforcement, as instructed by Ms. Lauren Parisi:

*We, the undersign neighbors submit the following complaint for your review as we have reason to believe that **T-Mobile** installed a Cell Tower at 922 South Emery St. in SLC, which is zoned as RESIDENTIAL. We believe that this installation transpired in violation of Salt Lake City Zoning Ordinances (see attached picture) ...*⁷

In response to our Zoning Complaint, in March 2017, Mr. Mikkelsen advised us of the following determination:

*“...it appears that a CUP was not required per 21A.40.160...It also appears that the antenna met the criteria within 21A.40.090(G.) – Antenna Regulations...”*⁸

We pressed Mr. Mikkelsen for an explanation to his determination. He replied as follows:

*“We spoke with Les Koch who manages the permit inspections staff and according to him it’s not uncommon for contractors who install cell towers to not call for a final inspection. The pole itself is owned by Rocky Mtn Power and they are responsible for any work conducted to replace the pole and no permit from SLC is required to do so...”*⁹

After telling us that a “no permit from SLC is required...” He proceeds to inform us of the following:

*“I’ve scheduled a final inspection to the inspector in that area and any deviation from the approved plans attached to this permit will need to be corrected.”*¹⁰

⁴ Ibid.

⁵ Ibid.

⁶ Lauren Parisi, Principal Planner email to Nick Norris – FW 922 S Emery Cell Tower 04/11/17 (GRAMA response)

⁷ Cathy Hernandez, Mike Harman, Archi Archuleta, Miles Kinikini, Alan Ruelas, Francisco Enciso, Guillermo Miramontes, residents Complaint Letter to Scott Mikkelsen, Zoning Enforcement Supervisor 01/31/17

⁸ Mr. Scott Mikkelsen, Zoning Supervisor/Salt Lake City Civil Enforcement email to Michael Clara – 922 S. Emery Cell Tower 03/28/17

⁹ Ibid.

¹⁰ Ibid.

At this point, not only did we disagree with his determination that the Cell Tower met the criteria set forth in Salt Lake City Ordinance, we found his follow-up explanations perplexing. If he is telling us that:

*“any deviations from the approved plans attached to this permit will need to be corrected”*¹¹

Then, how did he make the determination that the antenna array complied to the provisions of Salt Lake City Zoning Ordinance?

DEVELOPMENT REVIEW SUPERVISOR

In some frustration we submitted a GRAMA request for all records associated with 922 S. Emery St. Cell Tower installation.¹² The records responsive to our request did indeed bring clarity. The following is an email from Greg Mikolash, Development Review Supervisor:

*“These cell arrays being located in the public way are fun. We have a Franchise Agreement with RMP for their poles in the PW, and then the use of the poles are leased to cell companies. We require a permit and CUP...from the cell companies to install the array on the poles which RMP owns to which their poles are placed in the dirt that the City owns. Triecta of goodies.”*¹³

The GRAMA response also provided us with an internal email written on March of 2017. We sent an email to the Zoning Enforcement Officer asking for the status of our complaint. Mr. Mikolash states the following:

*“Didn’t we conclude that a new CUP [Conditional Use Permit] needed to be applied?”*¹⁴

Then Darby Whipple responds:

*“I think you’re right, To Whom is this being conveyed RMP or contractor? Do we know who installed the antennas? And how are we sending this message (Permits, Planning, or Enforcement)?”*¹⁵

Greg Mikolash then states:

*“I think we need to let the provider know what’s going on...”*¹⁶

It should be noted, that this internal email exchange was obtained as a result of a GRAMA request. Also, of significance, is that this exchange occurred prior to the Zoning Enforcement investigator advising us that the T-Mobile array was in compliance with Salt Lake City Zoning Ordinance.

¹¹ *Ibid.*

¹² T-Mobile GRAMA Request submitted to Salt Lake City 03/31/17

¹³ Gregory Mikolash, Development Review Supervisor / Building Services Division email to Heather Gilcrease, Development Review Supervisor / Building Services Division – 922 Emery Cell Tower 01/31/17

¹⁴ Gregory Mikolash, Development Review Supervisor / Building Services Division email to Darby Whipple and Joel Patterson, Programs Coordinator / Planning Division – 922 Emery Cell Tower 03/27/17

¹⁵ Darby Whipple, Building Services Manager / Building Services Civil Enforcement Division to Gregory Mikolash, Development Review Supervisor / Building Services Division and Joel Patterson, Programs Coordinator / Planning Division – 922 Emery Cell Tower 03/27/17

¹⁶ Whipple *op. cit.* 03/27/17

BUILDING SERVICES MANAGER

Subsequent follow up emails to the Building Services Manager resulted in even further ambiguity and then ignoring our questions:

*Darby, your responses are not providing any clarity to this situation, can you please suggest someone in the City that we should direct our outstanding questions to?*¹⁷

Page | 4 of 15

PLANNING DIRECTOR

Because we disagreed with the determination of the Zoning Enforcement Investigator, in some frustration, we turned to Mr. Nick Norris, Planning Director.¹⁸ Following, is our email exchange with the Planning Director:

*"I am forwarding you the email exchange I had with Scott Mikkelsen of Zoning Enforcement wherein he tells us that there is no zoning violation...I have also attached a graphic showing the current zoning. The picture on the left is a google picture showing the existing utility poles from last summer. the picture on the right shows that they replaced the existing utility pole and added the mono-pole with the six antennas."*¹⁹

In response to our phone call and email to the Planning Director we were advised of the following:

*"After reviewing the plans and the picture you provided, the cell antennae are located on a utility pole. The picture you provided show electrical distribution wires attached to the pole. While the pole is clearly new, the pole is not regulated by the zoning ordinance. The pole is also located in the public right of way. Cell towers on utility poles that are located in the public right of way are considered permitted uses according to ordinance 21A.40.090.E.2.g. Furthermore, the plans submitted in permit BLD2014-06707 show that the antennas on the pole have a diameter of 30 inches. This is the dimension that is permitted by ordinance. For the cell tower referenced in your emails, the zoning ordinance does not require a conditional use. I apologize for any confusion that may have been caused by our staff that incorrectly identified the utility pole as a monopole."*²⁰

At this point, we want to assert our belief, that this Conditional Use Application was prematurely scheduled for an Administrative Hearing. Accordingly, you do not have jurisdiction to consider this application as per current ordinance, which states:

A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:

- 1. The use complies with applicable provisions of this title;*
- 2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;*
- 3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and*
- 4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.*²¹

¹⁷ Michael Clara email to Darby Whipple, Building Services Manager / Building Services Civil Enforcement Division – Cell Tower Follow Up Question

¹⁸ At this point, we had not received the internal emails responsive to our GRAMA request that we previously cited.

¹⁹ Michael Clara email to Nick Norris, Planning Director / Planning Division – 922 S. Emery Cell Tower #2 04/11/17

²⁰ Nick Norris, Planning Director / Planning Division email to Michael Clara, Councilman Johnston, Joel Patterson, Darby Whipple - 922 S. Emery Cell Tower #2 04/12/17

²¹ Salt Lake City Zoning Ordinance 21a.54.080.A

In response to a recent GRAMA request,²² we have learned that the Planning Director was indeed aware (back in 2017) that the T-Mobile antenna array on 922 S. Emery St. was in violation of Salt Lake City Zoning Ordinance and he failed to initiate any type of corrective action.

Accordingly, the “Planning Director” should have exercised his authority in 2017, to “conclude” that T-Mobile was out of compliance with Salt Lake City Zoning Ordinances. As noted above, we sent an email to the Planning Director asking for his intervention. He in turn, sent an email to his staff:

“Anyone know any history on this? It looks like the pole is a utility pole, but still requires a conditional use because it is in a residential district, I don’t see one was applied for.”²³

Among the responses is one from a Senior Planner:

“I processed a CU [Conditional Use] for a similar request on 1100 E based on the width of the antenna exceeding 30 inches. I have attached the staff report.”²⁴

Another response was from the author of the Staff Report for the application that is before us today:

“I was the planner that talked to the customer, I wrote in my walk-in notes: The two older permits for antennas were voided., Nothing indicates that they received a permit to install new antennas. Monopoles are not permitted in the district. Advised Michael to call HAZE to investigate...”²⁵

We should here point out, that the 1100 East Conditional Use application is similar to the one that is before us today. Yet, it goes to the Planning Commission for consideration (twice):

“The request is to install three new wireless antennas on a utility pole located in a City-owned park strip. Rocky Mountain Power is proposing to replace the existing wood utility pole with a new steel utility pole. The existing wooden pole is approximately 58-feet tall. The replacement pole will be approximately 73-feet tall, a 15-foot increase in height...The proposed antennas will not be constructed flush against the pole. The antenna array will be approximately 10 feet 2 inches in diameter. The diameter measurement for both includes the pole itself, antennas and necessary mounting materials. The new antennas are proposed to be approximately 5 feet 1 inch in tall which is 11 inches shorter than the existing flush mounted antennas...Because the proposed antennas will exceed 30 inches in width, the request must be reviewed as a conditional use. All other aspects of the project meet the standards for wireless antennas mounted on a utility pole.”²⁶

WOW! What do westside residents need to do in order to have our projects taken this seriously, with the same amount of detail as the ones done on the eastside of town? In our case, T-Mobile is allowed to install an illegal cell tower with the complicity of shameless city staff. Westside residents have grown weary of this persistent pattern and practice of unethical and disparate treatment. Perhaps, that’s a discussion for another day. In late April 2017, Councilman Andrew Johnston sends an email to the Planning Director:

Quick question – in your email to Michael Clara you referenced the fact that the cell tower is permitted because it is in the public right of way and carried electrical conduit (is a utility pole). The strange thing is: it would appear to be simply allowing wires to run over it to claim to be a utility pole. It seems to be an exploitation of the spirit of the law and permit. Am I off base?²⁷

²² GRAMA request to Salt Lake City 12/21/18

²³ Nick Norris, Planning Director / Planning Division email to Planning Staff - 922 S. Emery Cell Tower 04/11/17

²⁴ John Anderson, Senior Planner / Planning Division email to Planning Staff – 922 S Emery Cell Tower 04/11/17

²⁵ Lauren Parisi, Principal Planner / Planning Division email to Nick Norris - 922 S Emery Cell Tower 04/11/17

²⁶ PLNPCM2017-00645 -Conditional Use -Sprint Wireless Antenna

²⁷ Andrew Johnston, City Councilman email to Nick Norris, Planning Director – Cell Tower on Emery St. 04/27/17

The Planning Director replies:

*"I don't think you are off base. Ultimately it is up to Rocky Mountain Power to replace an existing pole for the cell site, replace the pole, or add a new on pole. Our regulation says it is permitted on an existing pole, but once the pole is installed, it is existing. The cell provider the adds their equipment to it. Ultimately poles are exempt from zoning, se we cannot regulate things like spacing, height, etc."*²⁸

We disagree with the Planning Director's response to Councilman Johnston, as the ordinance states:

*"The antennas shall be located either on an existing utility pole or on a replacement pole in the public right-of-way"*²⁹

In 2011, the Salt Lake City Council adopted the language that we currently see in this section of the zoning ordinance:

*"The changes also include increasing the width of permitted utility pole mounted antennas from 24" to 30". Utility pole mounted antennas exceeding 30" in width would require conditional use approval."*³⁰

Also, in the changes, the following explanation was provided:

*"Utility Pole Mounted Antenna. The proposed text amendment encourages telecommunication facilities and antennas to locate on existing utility poles...as opposed to building new single use monopoles..."*³¹

We should her point out that the Planning Director's explanation conflicts with Salt Lake City's current design standards which reads:

*"Any attachment to a utility pole or utility line must first be approved by the owner of the utility pole. This includes attachment of overhead fiber and on-strand attachments proposed to attach to a utility pole. These standards apply whether attachment is to an existing utility pole, or if the owner requires installation of a replacement pole. A new utility pole installed for the purpose of attaching a small cell is not permitted but would be treated as a monopole."*³²

As pointed out by Councilman Johnston, T-Mobile violated the spirit and letter of the Ordinance, because they did not utilize an "existing" utility pole, nor did they "replace" one as they stated in their application. They instead circumvented city ordinance and ADDED a "monopole" and then ran electrical wires on it so that they could claim that it was a utility pole. Moreover, monopoles are not allowed in residential areas.³³ In blatant disregard for the safety of westside residents in the area, the comment on the building permit for this new structure states:

*"The monopole was not reviewed for structural engineering due to the fact that it is on the public property and pole is Rocky Mountain's pole."*³⁴

²⁸ *Ibid.*

²⁹ Section 21A.40.090.E.2.g

³⁰ Nick Tarbet Salt Lake City Council Staff Report 08/4/11

³¹ *Ibid.*

³² Salt Lake City, Small Cell Infrastructure Design Standards -September 2018

³³ Salt Lake City Zoning Ordinance :Table monopole

³⁴ Permit BLD2014-06707 07/01/15

That does not sit well with residents in the area. Moreover, we dispute the Staff Report conclusion:

“Analysis: *The utility pole is existing and similar in height to other utility poles in the city...* ***Finding:*** *This project satisfies the additional requirements of Section 21A.40.090.E.9.”*³⁵

One look at the photo in the Staff Report will call into the question the “similarity” of the new (as opposed to existing or replacement) pole.³⁶ Additionally, the City is playing a dangerous game with the life of residents by relying on Rocky Mountain Power for the “structural integrity” of the pole.

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According to the enclosed lease agreement, Rocky Mountain Power has delegated the responsibility for the structural integrity of the monopole to T-Mobile as per the Non-Exclusive Lease Agreement:

*“3.2 Compliance with Governmental Requirements. Lessee’s use of the Pole Space shall be lawful and in compliance with all applicable laws, orders, ordinances, and regulations of federal, state, county, and municipal authorities and agencies (“Governmental Authorities).”*³⁷

This part of the lease agreement, T-Mobile has violated:

*“3.3 Governmental Approvals. Lessee shall, at its own expense, obtain all authorizations, approvals, permits, licenses, variances, and certificates from Governmental Authorities having jurisdiction required for Lessee’s Permitted Uses, including but not limited to, all necessary zoning, land use, or similar approvals, and all certificates of public convenience and necessity, licenses, or similar operating authority from the FCC (collectively, “Governmental Approvals”). Lessor agrees to reasonably cooperate with Lessee, at Lessee’s sole expense, in obtaining Governmental Approvals. Lessor expressly grants to Lessee a right of access to the Pole Space to perform other engineering procedures or investigations thereon to determine that Lessee’s use of the Pole Space will be safe and compatible with Lessee’s engineering specifications, system design, operations and Governmental Approvals, subject to the restrictions in Section 4.2.”*³⁸

Why then would we trust T-Mobile to ensure that the monopole is structurally sound? Furthermore, we would call into question, the Staff Report’s findings:

*“This intent of limiting the diameter this way allows for some oversight of the size of the array so that it doesn’t become a visual nuisance or structural hazard.”*³⁹

As residents stated in their initial complaint to Zoning:

*“In conclusion, as residents of Salt Lake City’s Westside, we are deeply troubled that the City has neglected the care and maintenance of the 9 Line Parkway Trail. The neglect by the City has allowed the 9-Line to consist of nothing more than a strip of asphalt bordered by a garden of noxious weeds. Within the context of that oversight, it is even more shocking that the City would allow the installation of an eyesore such as a Cell Tower along the neglected 9-Line trail. Moreover, we question why the CITY would issue a permit for a Cell Tower electrical meter, when the Cell Tower itself was not granted a permit for installation. As already cited, the permit applications submitted by T-Mobile were duplicitous, expired, and voided. To that end, we respectfully request that you investigate our complaint and order the immediate removal of the illegal Cell Tower from the heart of our community!”*⁴⁰

³⁵ Parisi opt. cit.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

This same concern was recently expressed by resident Lance Hemmert,⁴¹ the Cell Tower adjacent to the 9 Line only contributes to its current state of blight that the trail is experiencing. The Staff Report, completely ignores the provisions of the 9 Line Master Plan:

“The existing state of the vegetation along the corridor leaves much to be desired. This is immediately obvious to any user of the existing trail, and was mentioned frequently by members of the local community...Public art along the corridor is another way to further emphasize this industrial brand, as well as provide recreational outlets. Rather than emphasizing static, delicate public art such as statues, the art along the corridor should be part of a ‘living canvas’ as well as emphasize movement and motion through the corridor. This means that the art should allow for interactive use by local residents, to invite free expression. This creates opportunities for the diverse population of local residents and trail users to leave their mark on the place.”⁴²

We also call into question the Staff Report’s Findings:

“Additional conditions are being recommended to screen the existing electrical equipment on the site and paint the proposed antenna array to match the pole or in such a manner to best reduce its visual impact...In response to community feedback and because the existing electrical equipment associated with the antenna array is highly visible from the 9-Line public trail, a condition has been imposed to appropriately screen this equipment. This should help to mitigate any negative visual impact created by the equipment, especially given its placement off of a public trail.”⁴³

The concern and response by the City about the electrical equipment should hold true for the oversized monopole that was installed contrary to current City Ordinance. Here again we disagree with the analysis in the Staff Report:

Analysis: *The utility pole is existing and similar in height to other utility poles in the city. Wireless antennas and utility poles are common in residential neighborhoods where they are needed to provide services to surrounding residents. The applicant has also worked to make the array itself smaller and the existing electrical equipment is setback from the public right-of-way, fenced in and will be screened.*⁴⁴

As already indicated, the monopole is NOT similar to the other utility poles. Additionally, we also call into question the size of the electrical equipment attached to a private garage. The picture in the Staff Report shows that the equipment exceeds the standards set forth in Salt Lake City Zoning Ordinance:

*Electrical Equipment Located On Private Property: Electrical equipment shall be located in the rear yard, interior side yard, or within the buildable area on a given parcel. In the case of a parcel with an existing building, the electrical equipment shall not be located between the front and/or corner facades of the building and the street. Electrical equipment located in a residential zoning district, shall not exceed a width of four feet (4'), a depth of three feet (3'), or a height of four feet (4') to be considered a permitted use.*⁴⁵

Back to the Planning Director’s role in this drama. In the City’s response to our recent GRAMA request, we noted the following email exchange (March 2018) between the Planning Director and Dr. Seelig:

“Please see the attached screenshot the Mayor sent to me. It's my understanding that you all may have some background on the utility pole issue. It's also my understanding that you might have impact information on a utility pole bill that passed this session. If my understandings are correct, please advise. I'd appreciate your brilliant insights. Thanks much, Jen”⁴⁶

⁴¹ *Ibid.*

⁴² 9 Line Master Plan

⁴³ Parisi *opt. cit.*

⁴⁴ Parisi *opt. cit.*

⁴⁵ Salt Lake City Zoning Ordinance 21a.40.090

⁴⁶ Dr. Seelig, Director of Community Empowerment / Office of the Mayor email to Nick Norris, Planning Director – Utility Pole Inquiry 03/14/18

The Planning Director replies as follows:

“The cell tower in question is not a monopole by definition in the zoning ordinance. It is a “utility pole mounted antenna” by definition and subject to specific zoning regulations that are different than the monopole requirements. RMP did install a new utility pole to accommodate the cell tower. According to the building permit, the cell antennae themselves comply with the maximum size to be considered a permitted use on the utility pole. The language in the code says that the antennae can be placed on an existing pole or a replacement pole. As soon as the pole is in the ground, it becomes existing. The zoning ordinance does not regulate utility poles other than to allow them in all zoning districts.”⁴⁷

In our opinion, the Planning Director’s response is a stellar example of governmental obfuscation. As already explained, the Ordinance states that the antenna array will be placed on an existing or replacement utility pole. In this case the Planning Director acknowledges that a “new” pole was installed. He then gives his interpolation of how a “new” pole gets converted to an “existing” pole, which we have already pointed out is contrary to current City Ordinance. He then is careful with his words when he informs Dr. Seelig: “According to the building permit, the cell antennae themselves comply with the maximum size to be considered a permitted use on the utility pole.” Knowing full well that the actual antennas out on the street did not “comply”. He then, erroneously, tells Dr. Seelig: “The zoning ordinance does not regulate utility poles other than to allow them in all zoning districts.”

The truth of the matter is that Rocky Mountain Power has an Electrical Utility Franchise Agreement with Salt Lake City that states the following:

“The City hereby grants to Rocky Mountain Power the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines ... rights-of-way, not including City parks, buildings or other spaces not associated with City-owned rights-of-way (collectively referred to herein as “Public Ways”) within the City, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof. ... Except in the case of an emergency, Rocky Mountain Power shall, prior to commencing new construction or major reconstruction work in the Public Ways, apply for any permit from the City as may be required by the City’s ordinances, which permit shall not be unreasonably withheld, conditioned, or delayed. Rocky Mountain Power will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing, Rocky Mountain Power shall not be obligated to obtain a permit to perform emergency repairs.”⁴⁸

In other words, Rocky Mountain Power has an obligation to follow Salt Lake City Ordinances. Ironically, Rocky Mountain Power has entered into an agreement with T-Mobile that they have the obligation to follow all governmental regulations. In the mean time the Planning Director claims that the City has no regulatory authority over the installation of utility poles. That is a false statement.

In a more recent email exchange, the Planning Director informed us of the following:

“I will be in attendance at the open house. Under state law and city ordinance, the city is required to approve the conditional use unless the proposed use creates a detrimental impact that cannot be reasonably reduced through mitigation efforts. FCC regulations prohibit local government from using radio frequency emission as a reason for denial or as a detrimental impact that can be regulated. (Section 332(c)(7) of the Communications Act) ...”⁴⁹

⁴⁷ *Ibid.*

⁴⁸ Rocky Mountain Power Electrical Utility Franchise Agreement and General Utility Easement 10/04/16

⁴⁹ Nick Norris, Planning Director / Planning Division email to Michael Clara – Cell Tower Community Meeting 12/19/18

We disagree, that there is a prohibition on “local government from using radio frequency emission as a reason for denial”. This is a theme that is repeated throughout the Staff Report:

“The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

Analysis: *Surrounding the subject site are single-family homes to the north and west, a large open lot to the east, and the 9-Line Trail and an elementary school to the south. A wetland preserve is located a few blocks to the east of the site. There are also multiple power poles located on park strips within this neighborhood and the utility pole on which the array will be mounted is existing.*

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Finding: *Staff finds that wireless antennas are commonly found on utility poles in both commercial and residential areas of the city, the size of the existing array is being reduced to have less of a visual impact on its surroundings and, in general, is compatible with the surrounding uses in the area. While the community raised concern regarding the antenna array’s environmental impacts on its surroundings, federal law limits local governments from regulating wireless facilities based on the environmental effects of radio frequency emissions. Additional conditions are being recommended to screen the existing electrical equipment on the site and paint the proposed antenna array to match the pole or in such a manner to best reduce its visual impact.”⁵⁰*

In another part of the Staff Report, we find the following:

“The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property... The proposal will not significantly impact the environment or introduce any hazard. While the community has raised concerns regarding the antenna array’s environmental impacts on surrounding residents as well as the nearby wetland preserve... federal law limits local governments from regulating wireless facilities based on the environmental effects ...”⁵¹

Conversely, the Director of the Office of Environmental Policy and Compliance of the United States Department of the Interior sent a letter to the National Telecommunications and Information Administration in the Department of Commerce that addresses the Interior Department’s concern that cell tower radiation has had negative impacts on the health of migratory birds and other wildlife. The Interior Department accused the Federal government of employing outdated radiation standards set by the Federal Communications Commission (FCC), a Federal agency with no expertise in health. The standards are no longer applicable because they control only for overheating and do not protect organisms from the adverse effects of exposure to the low-intensity radiation produced by cell phones and cell towers:

“The Department believes that some of the proposed procedures are not consistent with Executive Order 13186 Responsibilities of Federal Agencies to Protect Migratory Birds, which specifically requires federal agencies to develop and use principles, standards, and practices that will lessen the amount of unintentional take reasonably attributed to agency actions.... The placement and operation of communication towers, including un-guyed, unlit, monopole or lattice-designed structures, impact protected migratory birds in two significant ways. The first is by injury, crippling loss, and death from collisions with towers... The second significant issue associated with communication towers involves impacts from non-ionizing electromagnetic radiation emitted by them...”⁵²

Moreover, we believe that due to the Cell Tower’s proximity to the Jordan River and the Fife Wetland Preserve, triggers the need for an Environmental Assessment. ⁵³

⁵⁰ Parisi *opt. cit.*

⁵¹ *Ibid.*

⁵² Willie R. Taylor, Director / Office of Environmental Policy and Compliance -U.S. Department of Interior 02/07/14

⁵³ The National Environmental Policy Act (NEPA) of 1969 requires all federal agencies to evaluate the potential impacts to the environment of projects under their jurisdiction. The Federal Communications Commission (FCC) rules for implementing NEPA are found in Title 47 CFR, Part 1, Subpart I, rule sections 1.1301 to 1.1319.

Accordingly, instead of telling us that Federal government allows this Cell Tower to be implanted in our community, the Planning Department should instead require T-Mobile to conduct an environmental study and receive NEPA clearance before being able to proceed.

Back to the Planning Director. The co-chair of the Poplar Grove Neighborhood Alliance, Mike Harman asked the following:

*I am glad that you will be in attendance, there appears to be some outstanding questions. I understand the need for a conditional use permit, and that the City is required to approve it, but does that mean that the normal processes are not followed in these cases. I appreciate the opportunity to attend the open house, but I am trying to understand why this is happening 2 years after the original cell tower was installed, and there was NOT an open house, or public process when it was originally installed?*⁵⁴

The Planning Director replied:

*"Thanks Mike. If I remember correctly the original plans that were submitted to the city showed that the antennae were 30 inches or less in diameter. At that size they would have qualified as a permitted use and would not have required the conditional use process. The Planning Division is not notified of applications for permitted uses because they are not required to go through a public process. What was installed did not match what was shown on the original plans. Hope that helps."*⁵⁵

We are troubled by the fact that as late as last month, the Planning Director is claiming that "The Planning Division is not notified of applications for permitted uses..." When in fact, we notified him directly, back in 2017, that the T-Mobile Cell Tower was in violation of City Ordinances.

Just three weeks ago, resident Lance Hemmert send the following email to the Planning Director:

*"Wouldn't the city have known that a 100 ft. steel pole was going to be erected on-site, across from the Fife wetland preserve, along side a leisure trail, and essentially in front of someone's front yard? No one thought it would be a good idea to see if a giant steel pole, fixed with a giant antenna array, in front of a wildlife preserve, along a linear park, and in front of someone's house might, you know, want to be discussed? You have city policy to consider, along with environmental requirements, not to mention the aesthetics of a giant, ugly, industrial steel pole and antenna array along side a leisure trail and across from a wildlife preserve. Did I mention sticking that monstrosity basically in someone's front yard is just incredibly bad form? Who dropped the ball on this one? Instead of dodging responsibility, how about the individuals who make decisions and who can right this wrong demonstrate some leadership and get this fixed, and make Poplar Grove and Glendale whole by removing it, or at the very least ensuring it's in compliance with city ordinance, EPA standards, and isn't an eyesore since it's on a park and in front of someone's house? Where are the people who're paid to ensure this kind of thing doesn't happen, and when it does, liaises with the company that installed it to get them back into compliance? C'mon. Let's get this fixed."*⁵⁶

The Planning Director replies:

*"The city is addressing it and that is why the open house is being held on Monday, why the conditional use application was required, and why the size of antennae are being reduced. Admittedly it took longer than it should have, but it is in the correct process now. The utility pole itself is exempt from the city's zoning regulations."*⁵⁷

As we have previously pointed out, the Planning Director is wrong when he states: "The utility pole itself is exempt from the city's zoning regulations". Moreover, we believe that if the City was really "addressing" this issue, T-Mobile would have been required to remove the illegal Cell Tower, not allowed to stay in place.

⁵⁴ Mike Harman, Co Chair/Poplar Grove Neighborhood Alliance email to Nick Norris 12/19/18

⁵⁵ *Ibid.*

⁵⁶ Lance Hemmert email to Nick Norris, Planning Director 01/03/19

⁵⁷ *Ibid.*

The last email exchange from the Planning Director is his response to questions we posed about this Cell Tower issue. He responded as follows:

*The first inquiry on this cell tower that I received was on April 11, 2017. While I don't supervise or direct the staff of the building permits office or zoning enforcement, I do think that my response to your April 11, 2017 email led to confusion and a delay in the enforcement process. The initial inquiry to me was asking about an illegal "monopole" located on Emery Street. The email from you stated that cell towers were only allowed in residential zones if they are wall mounted. I inquired with my staff after I received your email to see if anyone knew about the pole in question. After discussing it, we determined that the pole in question is not a monopole but rather a utility pole based on the definitions within the zoning ordinance. A utility pole is permitted by right in residential zoning districts and the zoning ordinance does not regulate height, spacing, or design of the utility pole. The zoning ordinance does allow cell antennae to be attached to an utility pole in residential zoning districts. My email to you in April 2017 should have been more clear about cell antennae on utility poles within the right of way being permitted if the antennae array is less than 30 inches and a conditional use being required if the array exceeded 30 inches. In hindsight, the enforcement process would have been quicker if my response was more clear and if I asked questions regarding the known width of the array vs. what was on the submitted plans.*⁵⁸

Here again, we are disappointed in the response which consist of more obfuscation. On the one hand he does not, "supervise or direct the staff of the building permits office or zoning" and on the other hand he tells us, "In hindsight, the enforcement process would have been quicker if my response was more clear."

Furthermore, we know from the emails already cited, that he was well aware that the antenna width was an issue:

*"Anyone know any history on this? It looks like the pole is a utility pole, but still requires a conditional use because it is in a residential district, I don't see one was applied for."*⁵⁹

As a follow-up to the email above he sends out the following to his entire staff:

*"...but there is some question if the width of the antenna does trigger the CU?"*⁶⁰

Even more insidious than the actions of T-Mobile is the Planning Director's insistence on shielding their bad behavior at the expense of his responsibilities to Salt Lake City residence.

DEPARTMENT OF COMMUNITY AND NEIGHBORHOOD DEVELOPMENT DIRECTOR

We recently received emails responsive to our GRAMA request that demonstrate the indifference in which westside issues are viewed by appointees of Mayor Biskupski. In April 12, 2017, the Planning Director sends the email exchange that he had with us about the Cell Tower issue. Stating:

*"Keeping you in the loop on this..."*⁶¹

Mr. Reberg replies:

*"Thanks. Seems like everybody to throw down these days..."*⁶²

⁵⁸ Nick Norris, Planning Director / Planning Division email to Michael Clara – Seelig Response Re: Cell Tower Community Meeting 01/07/19

⁵⁹ Nick Norris, Planning Director / Planning Division email to Planning Staff - 922 S. Emery Cell Tower 04/11/17

⁶⁰ *Ibid.*

⁶¹ Nick Norris, Planning Director / Planning Division email to Mike Reberg - 922 S. Emery Cell Tower#2 04/12/17

⁶² *Ibid.*

We find it curious that our inquiry into this issue would be characterized in this manner. Nevertheless, it sheds light on why our concerns and issues are not taken seriously by appointees of the current Mayor. Later that year, the Planning Director forwards an email exchange between us and City Councilman Andrew Johnston about this Cell Tower issue, to Director Reberg. The Planning Director states the following:

*“Including you on this correspondence as an FYI. I have not responded and don’t plan on it. Mr. Clara is claiming that we said no permit is required, which is incorrect...The ordinance does not require a conditional use for this type of pole when they are in the ROW.”*⁶³

Mr. Reberg replies:

*“Thanks”*⁶⁴

If nothing else, this gives us insight into why appointees of the current Mayor, feel it is okay to dismiss and ignore complaints that residents bring to their attention. This also shows us how easy it is for one Director to deceive another. Nevertheless, it is alarming that there is no checks and balances on how Ordinances are enforced, or how City policies are carried out. We can only conclude that the socioeconomic status of the resident raising the concern determines the level of serious in which it will be received. Sadly, westside residents are far too familiar with the attitude:

*“I have not responded and don’t plan on it”*⁶⁵

FIRE DEPARTMENT

In the Staff Report, we find the following statement from the Fire Department:

*“Fire would have no objections to the conditional use request PLNPCM2018-00585, to increase the size – or the diameter in particular – of an existing antenna array 30 inches to 45 inches that’s mounted on a utility pole in the public right-of-way at 922 S. Emery Street. The number of existing antennas will not change (six total), but three of the replacement antennas will be slightly larger. No new ground mounted utility boxes will need to be installed to accommodate the antenna replacements.”*⁶⁶

The problem that we have is that the Fire Department never reviewed the original plans when the monopole or electrical equipment when it was being installed.

ENGINEERING DEPARTMENT

The Staff Report states the following comment by the City’s Engineer:

*“RMP (Rocky Mountain Power) has indicated that they will not allow a company to use their pole unless they have a franchise agreement with the City. This application slipped by RMP and they have acknowledged that they errored. T-Mobile should not be covered by RMP’s Franchise Agreement.”*⁶⁷

If this is true, then why are we even going through this process? Why not have T-Mobile first, enter into this agreement with the City and then come back and apply for the Conditional Use Permit?

⁶³ Nick Norris, Planning Director / Planning Division email to Mike Reberg – Latest GRAMA Appeal 07/11/17

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ Parisi *opt. cit.*

⁶⁷ Parisi *opt. cit.*

BUILDING SERVICES DIRECTOR

The Building Services Department is where the greatest mystery of all resides. This is the place where Zoning Enforcement is housed. We have placed calls to three separate investigators and have received no call back. We have left a phone message with Orion Goff who is the Director, as of this writing, he has not returned our call. Under the section of Zoning Enforcement Supervisor, we noted the actions of this department back in 2017, where they claimed to have investigated our complaint and determined that the Cell Tower was in compliance with Salt Lake City Ordinance.

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The Staff Report states the following:

"The existing antenna array with 6 antennas does not comply with code because it has a diameter over 30 inches(measuring 80 inches or 6 feet 8 inches) and did not receive conditional use approval. The community raised concern that this array appeared larger than the allowable 30 inches thought to be approved per the initial building permit and; therefore, Zoning Enforcement Case #HAZ2018-01633 was opened on June 1, 2018 to look into the matter. It was confirmed that the array that was constructed is larger than 30 inches in diameter.." ⁶⁸

We did a GRAMA request for the Zoning complaint that was filed on June 1, 2018. We received a letter written by Zoning Enforcement to T-Mobile dated June 8, 2018, the letter states the following:

"It has recently come to the attention of this office that the above referenced property is in violation of the Salt Lake City Code. The Violation and code section are as follows...NOTE: Antenna size/ diameter is not according to plan. Please take any necessary actions to bring your property into compliance with the above reference code. Compliance must be attained on or before June 22, 2018. Failure to comply will result in the initiation of appropriate legal action." ⁶⁹

We should here point out, that when the Zoning Investigator states, *"It has recently come to our attention..."* is a bit misleading. The Zoning investigator that wrote this letter was a part of the email exchange back in March of 2017 and was aware back then, of the T-Mobile violation. Also, in March of 2017, Greg Mikolash stated that they should advise T-Mobile:

"I think we need to let the provider know what's going on..." ⁷⁰

So, it is almost as if those in the Zoning Enforcement Division are just going through the motions of pretending to initiate an enforcement action during the month of June 2018, because we know that all the players, including T-Mobile already had this conversation back in March of 2017. At this point we have no idea why our initial complaint that was filed on January 31, 2017, was, in an unethical manner, investigated and closed. We have no idea why the same complaint was filed on June 1, 2018, resulted in a determination that T-Mobile is in violation. We have no idea why T-Mobile was ordered to come into compliance by June 22, 2018, yet still allowed to have their illegal Cell Tower in place. We have no idea because no one from the Building Services Department will return our calls. Not even Mr. Goff. This is why those in the Planning Department will refer us to the those in the Building Services Department. They know our calls will not get returned and the dysfunctional bureaucracy at City Hall continues its circular rotation to nowhere. Resident Jason Seaton has summarized our frustration as follows: *"Yeah. There's lots of dancing around this...What I've learned from all of this is that... I can do anything I want - anywhere I want - as long as I submit paperwork that says what the city wants to hear. Or... Maybe, someone at the city is on the take from T-Mobile and got paid to let it happen?! Maybe? What's really important is that now I know if I get a permit to fix my front porch. I will have permission to build a rollercoaster on 2nd South and Main."* ⁷¹

⁶⁸ Ibid.

⁶⁹ Wendy Madgrill, Civil Enforcement Officer / Zoning Enforcement letter to T-Mobile 06/08/18

⁷⁰ Whipple *op. cit.* 03/27/17

⁷¹ Jason Seaton email to residents and city staff – Cell Tower Community Meeting 01/03/19

ADMINISTRATIVE HEARING OFFICER

We are of the belief that you (Joel Patterson) should have recused yourself from presiding at this administrative hearing, it is a bit incestuous that you would judge this matter when it is clear, that you too were aware that T-Mobile had blatantly violated Salt Lake City Zoning Ordinance yet you failed to initiate any type of corrective action.⁷²

MAYOR'S CHIEF OF STAFF

In April 2017, we filed a GRAMA Appeal because the City was withholding information from us i.e. Cell Tower Plans, Franchise Agreement with Rocky Mountain Power etc...Mr. Patrick Leary, Mayor Biskupski Chief of Staff denied our appeal and in part stated the following:

*"A conditional use permit for the mobile infrastructure on a Rocky Mountain Power utility pole at 922 S. Emery Street was not required. Moreover, you were notified on April 12, 2017 by Nick Norris, Director, Salt Lake City Planning Division, that the installation of a mobile communications antenna on a utility pole at 922 S. Emery Street "is not regulated by the zoning ordinance..."*⁷³

We now know that City staff on every level has been wrong on this issue. We also know that there is no checks and balances in this administration. As residents of Poplar Grove, we don't anticipate that we will receive a fair hearing on this matter. If the Conditional Use Permit is granted, it is our intent to appeal. We are of the belief that this entire process within City Hall is tainted and we won't obtain a fair hearing on this matter until we get this issue before a Judge in Third District Court.

CONCLUSION

As to the actions of City employees on this issue, the Staff Report gives us a sanitized explanation:

*"While it is not completely clear why an enforcement case was not opened up initially, it seems there was confusion and miscommunication across different city departments in terms of the type of structure the antenna was mounted on (monopole vs. utility pole), the standards and conditional use requirements for these different types of antenna mounting structures, and what the building permit plans had approved as opposed to what had been built."*⁷⁴

There is no question that it is mind numbing to sort through the behavior and motives of the public servants involved in this Cell Tower drama. Nevertheless, we recognize that any reluctance on our part, to determine why public service ethics is missing in this situation would serve to reinforce bad behavior. While ensuring its continuing influence and increasing the possibility of future acts of dehumanization and destruction in the name of public policy. Deliberative democracy insists on a meaningful role for citizens in public decision making. We have the conviction that critical and active citizenship is a key aspect to building a viable democracy. In our practice of democracy, we reject public policies based on exclusion and exploitation. To allow T-Mobile to establish an illegal Cell Tower in our community would serve to weaken the community by undermining the civic bonds that unify us while eroding the political process.

Consequently, our relationship with the Planning Division is one of domination where they have inappropriately exercised all the power over us. POWER minus ACCOUNTABILITY equals DOMINATION. We want to correct that imbalance and bring our relationship closer to some state of parity. In other words, we are a group prone to oppose domination which must insist on a City government marked by mutual recognition and democratic responsibility. In this scenario, we look forward to strengthening our public life and public ethics through the rigor and tribulations of this deliberative Conditional Use process.

⁷² Whipple emails *opt. cit.* 03/27/17

⁷³ Patrick Leary, Chief of Staff/Office of the Mayor -GRAMA Denial letter to Michael Clara 04/26/17

⁷⁴ Parisi *opt. cit.*

From: Michael Cldra
To: Seejiq, jennifer
Cc: NQrriS, NiCk' Zay Angel Alvarez; Mike Hnrman; George Chapman' jason@backofbeyondstudios.com; ChScwU LiaiSQn\$; Leary, patrick; Whipple, Darby; Mikke sen, Scott; Representative Sandra Hollins' Representative Angela RomerQ; SenatQr Luz Escamilla; SenatQr Luz rqWcs; Lance Hemmed; Lance V Hemmed; Navar, Elaine; Parisi, LcJjren
subject: Re: Cell Tower Community Meeting
Date: Wednesday, December 19, 2018 4:09:31 PM
Attachments: Q42G17LearYGRAMArespQnse,paf

Dr. Seelig,

It appears that the illegal cell tower at 922 S. Emery St. will be taken down and the Planning Department has scheduled an Open House to be held January 7, 2019. That meeting may satisfy our request to have a community meeting about this issue if all those involved are in attendance. Can you tell us who from the City will be at the Open House? In order to close the loop on this issue, we need clarification from the Mayor's office, Planning, Zoning and Building Inspections Departments.

As you are aware we have maintained that the Cell Tower at 922 S. Emery St. was not in compliance with SLC Ordinance that required cell tower antennas in a residential area not to exceed 30" in diameter.

In January to March of 2017, we met with representatives of the departments mentioned above and showed them pictures and measurements, illustrating that the Cell Tower on Emery St. was six feet and eleven inches (6'11") in diameter. Yet, they insisted that it was in compliance with the ordinance.

On March 28, 2017- in response to a zoning ordinance violation that we filed, Scott Mikkelsen (Housing/Zoning Supervisor) advised us that the Cell Tower at 922 S. Emery St. was in compliance with the ordinance and that a conditional use permit was not required.

The following month, Patrick Leary maintained the position that the Cell Tower was in compliance. I have attached the April 26, 2017, GRAMA denial letter we received from Patrick Leary. On page three of that letter, in reply to our request for a copy of the Conditional Use Permit (CUP) associated with the Emery St. cell tower he states the following:

"The reference in Mr. Mikolasb's January 31, 2017 email to a "CUP", which you have emphasized in bold letters, is taken to mean that you believe a conditional use Permit should have been provided. As you note in my March 27, 2017 email from Mr. Mikolasb that you cited in your appeal a conditional use Permit for the mobile communications infrastructure on a Rocky Mountain Power

utilgy Poie at 922 S. Emerj Street was not required. Moreoi'er, JOlt were notz)ied on ripn'i 12, 2017, gy Nick Nom's, Director, Salt Lake Cijy Planning Division that tbe installation qfa mobile communications antenna on a utihjy Poie at 922 S. Emerj Street "is not regulated by tbe {oning ordinance". Accordingy, no conditional use Permit was required or issued. Since no such Pllblic record exists as to a conditionaluse Permitfor a T-Moh7e cell tower at tbe address described, your aPPeal as to issue is denied. "

Where is Patrick Leary, Nick Norris, Scott Mikolash and Scott Mikkelsen on this issue today? Have they been made aware that a Cell Tower in a residential area with antennas that have a diameter of 6'11" exceeds the 30" limit as set forth in ordinance? When we sought their assistance on this issue back in 2017, why were they not honest brokers with us? Will they be in attendance at the January Open House?

Un abrazo,

Michael Cldra
M: 801-205-0389

On Thu, Dec 13, 2018 at 7:42 PM Seelig, Jennifer <jennifer.Seelig@slcgov.com> wrote:
Michael, thank you for your email. I will look into this. Best, Jen

Sent from my iPhone

> On Dec 12, 2018, at 7:35 AM, Michael Cldra "dQnmigjjsk@gmau&QIn" wrote:

>

" Dr. Seelig,

>

> This is a follow up to one of the issues we discussed in our April 2018, community meeting (see attached). Do you have an update as to the status of the illegal cell tower at 922 S. Emery St.?

>

> I am also writing to request that you help us facilitate a community meeting with the Salt Lake City Planning Department and the Zoning Department to occur in January of 2019. I have cc-ed Senator Escamilla, Representative Romero and Representative Hollins in the event that we need to provide them input on any proposed Cell Tower legislation based on our experience with this issue.

>

> Ms. Summers recently sent us a copy of a document titled: Emery Street Antenna Meeting Agenda (see attached). It appears that the meeting was held in May 2018, following the community meeting we had with you.

>

> The purpose of the meeting we are requesting for January 2019, would be to inform the community members concerned with this issue and to address outstanding questions (see attached fact sheet). It appears that in May 2018, the City came to the same conclusion as the residents did, the previous year.

>

> Among the outstanding questions: In 2017 (see enclosed GRAMA appeal text and video): Why was the Planning director and Zoning investigator adamant that the Cell Tower was in compliance with City ordinance when in fact it was not? Why did the Mayor's office refuse to provide us documents associated with this issue by misrepresenting their GRAMA classifications?

>

>

>

> Link to video about Emery St. Cell Tower

> <https://youtu.be/anvwdll6do>

>

>

> TEXT OF GRAMA APPEAL :

>

> 1 May 2017

>

> DELIVERED VIA ELECTRONIC MAIL

> Ms. Nova Dubovik, Executive Secretary

> Utah State Records Committee

> 346 South Rio Grande

> " Salt Lake City, Utah 84101-1106

>

>

> Re: Communities of Color Confront Environmental Racism

>

> Dear Ms. Dubovik,

> GRAMA NOTICE OF APPEAL

> TO THE STATE RECORDS COMMITTEE

>

>

> Please accept this letter as a:

>

>

> Pursuant to Utah Code § 63G-2-402, I am seeking relief of a GRAMA denial letter, signed by Mr. Patrick W. Leary, Chief of Staff for Salt City Mayor Biskupski.[1] The May 1, 2017, letter from Mr. Leary rejects my GRAMA appeal for T-Mobile site plans for the installation of a Cell Tower in the heart of the Poplar Grove and Glendale communities and a copy of the most current Franchise Agreement that Salt Lake City has entered into with Rocky Mountain Power. Additionally, Mr. Leary has denied my request for requested information maintained in the City's ACCELA program. Accordingly, I am submit this GRAMA NOTICE OF APPEAL TO THE STATE RECORDS COMMITTEE. [2]

>

> BACKGROUND

> In September of 2016, a Cell Tower was installed at 922 S. Emery St. in Salt Lake City, Utah. Residents in the area were concerned because they received no type of notification that this type of installation would be erected in their community. Residents reported that they spoke to City officials and either their calls were not returned or unanswered questions remained outstanding.

> In January of 2017, residents in the area asked for my assistance in my capacity as a

Community Organizer. We initially researched the address utilizing Salt Lake City's "Citizens Access Portal" for building permits.

> We noted that T-Mobile applied for a Commercial Building Permit on 09/15/2014 for the 922 S. Emery St. location with the project name of Parkview School and the permit number BLD2014-06707. This permit had expired because T-Mobile did not conduct any work during the 180 day time frame as prescribed by Salt Lake City Zoning ordinance.

> The portal also showed that in 2015, T-Mobile once again applied for a Commercial Building Permit BLD2015-04601 for the same location, stating in the narrative of the application:

> T-Mobile made application BLD2014-06707 it is showing expired, so we are reapplying.

> This 2015 permit displayed the status as "Voided."

>

> Finally, the citizen portal also showed a Commercial Electrical BLD2016-05192 with the project name of Parkview School which is actually located at 970 S. Emery St., yet the work associated with this permit was conducted at 922 S. Emery St. which is a residence.

>

> Although there is a place in the Citizen Portal wherein site plans can be displayed, none was displayed in association with the permits noted above.

>

> In mid- January, we met with a Planner in Salt Lake City Planning Department and presented her with our concerns. After reviewing information available to her, she concluded that T-Mobile has installed a Cell Tower in an area that is zoned residential which is in violation of Salt Lake City's current zoning ordinances. Moreover, she stated that T-Mobile did not have a valid permit to install the Cell Tower. We were then directed to go to the Zoning Enforcement office and file a complaint against T-Mobile.

>

> On January 31, 2017, we filed a formal complaint with Scott Mikkelsen who is a Zoning Supervisor with Civil Enforcement of Salt Lake City. In mid-March, several residents asked me if I knew the status of the complaint we filed back in January 2017. I sent an email to Mr. Mikkelsen asking for an update on his investigation.

>

> On March 28, 2017, Mr. Mikkelsen sent us an email, and in part, states the following: Mr. Clara — here's the determination based on our research:

> It appears that we issued a permit for the antenna and boxes back in 2014 for the 922 S. Emery location...It appears that the 922 pole, antenna and boxes were adequately reviewed and approved.

>

> On March 30, 2017, we received a follow up email from Mr. Mikkelsen wherein in part, he states the following:

> ...The pole itself is owned by Rocky Mtn Power and they are responsible for any work conducted to replace the pole and no permit from SLC is required to do so. ..I've scheduled a final inspection to the inspector in that area and any deviations from the approved plans attached to this permit will need to be corrected. ..

>

>

> On March 31, 2017, we I filed a GRAMA request with Scott Mikkelsen, Salt Lake City's Housing/Zoning Supervisor and with the Salt Lake City Recorder's Office. [3]

" On April 11, 2017, we filed a GRAMA NOITCE OF APPEAL because the City failed to respond within the specified time frame as prescribed in GRAMA. Additionally, we sent an

email to the Planning Director asking the following question:

> I am forwarding you the email exchange I had with Scott Mikkelsen of Zoning Enforcement wherein he tells us that there is no zoning violation. In order to make it appear that T-Mobile had a permit to do this installation he went back (April 2017) and opened the 2014 "expired" permit and assigned the installation for inspection. Really? Permits expire after 180 days of no activity. How is an inspector tasked with ensuring zoning ordinances are followed able to activate an expired permit?

>

> On April 12, 2017, in response to our question about the expired permit, we received the following from Salt Lake City Planning Director, Nick Norris who in part, states the following:

> After reviewing the plans.. .the cell antennae are located on a utility pole.. .the plans submitted in permit BLD2014-06707 show that the antennas on the pole have a diameter of 30 inches...I apologize for any confusion that may have been caused by our staff that incorrectly identified the utility pole as a monopole.

>

> On April 14, 2017, The Ms. Galina Urry of the Department of Community and Neighborhoods replied to our initial GRAMA request stating that that our records request would be granted once we paid a fee of \$28.60. On that same day, we paid the fee via the City's electronic system as instructed in the email.

>

> On April 15, 2017, we sent an email through the City's established records portal asking why we had not been granted access to the records in the GRAMA response.

>

> On April 18, 2017, I called the City Reorders Office to ascertain the status of my records request. It was confirmed that I had paid the required fee and that the records had not been released. Furthermore, I was advised that the records would be released for my review. I was indeed able to retrieve the records within 30 minutes of my phone call to the City Records Office. I shared the records with multiple neighbors living within the Poplar Grove and Glendale community.

>

> On April 19, 2017, we filed a GRAMA appeal because it appears that the GRAMA request of 03/31/17 was partially fulfilled. It also appears that the City did not provide us an explanation for the denial of certain records as specified in Utah Code §63G-2-205:

> ...the governmental entity denies the record in whole or in part, it shall provide a notice of denial. The notice shall contain a description of the record or portions of the record to which access was denied, the legal citation on which the decision to deny access is based, a statement that the requester has the right to appeal to the chief administrative officer, the time limits for filing an appeal, and the name and business address of the chief administrative officer.

>

> On April 27, 2017, we sent an email to Salt Lake City Building Services Manager asking how City personnel allowed T-Mobile to install a Cell Tower with an expired permit. We received the following response:

> Regarding your inquiry about BLD2014-06707. I confirmed that the permit applied for and reviewed was for the work performed and that no further processes were required as part of this permit.

>

> On April 28, 2017, I sent the following email to Mr. Darby:

> Your responses are not providing any clarity to this situation. Can you suggest

someone in the City that we should direct our outstanding questions to?

>

> On May 1, 2017, we received a letter from Mayor Biskupski's office rejecting our GRAMA appeal for the 922 S. Emery St., T-Mobile site plans stating the following:

> The City considers such technical drawings to be protected by federal copyright laws...since the City has determined that "the plans" are not a public record, your appeal as to that material is DENIED.

>

> Mayor Biskupski's office also rejected our request for a copy of the most current Franchise Agreement that Salt Lake City has entered into with Rocky Mountain Power, stating the following:

>

> The City's franchise agreement was entered into long before and without respect to said location, carrier and installation

> Because of that of the Mayor's office rejecting our request, we are filing this appeal with the State Records Committee.

>

> REMEDY

> In accordance with Utah Code §63G-2-403, the relief we are seeking, production of the records that were requested in our original GRAMA submission of 03/31/17 and denied to us in the City's response (examples of missing records have been provided in this appeal). We are requesting that the State Records Committee to reverse the Mayor's Office rejection of our GRAMA Appeal.

>

> Sincerely,

>

> J. Michael Clara

> Community Organizer

>

>

>

>

> [1] Mr. Patrick Leary GRAMA Notice of Appeal Denial dated 04/26/17

>

> [2] GRAMA Notice of Appeal to State Records Committee Form 06/08/15

>

> [3] Crossroad Urban Center GRAMA Request to Salt Lake City 03/31/2017

>

>

>

>

> Un abrazo,

>

> Michael Cldra

> M: 801-205-0389

> <CellTowerApril2018MeetingNotes.jpg>

> <CellTowerFactSheet032518.pdf>

> <Emery Street Antenna Meeting Notes 5.30.18 (1).pdf>



April 26, 2017

Michael Clara
Salt Lake City, Utah
Michael@,crossroadsurbancenter.org

Re: GRAMA Notice of Appeal
Cellular Antenna at 922 S. Emery Street

Dear Mr. Clara:

This decision is in response to your appeal of the records provided by Salt Lake City Corporation wherein you claim that some records were improperly excluded and that reasons for withholding documents were not given. Your appeal is denied in pm and sustained in part for the reasons below.

Procedural History

On March 3 1, 2017, you submitted a request for records to Salt Lake City Corporation (the "City") directed to Scott Mikkelsen, Housing/Zoning Supervisor, Civil Enforcement, for

a copy of all records (a book, letter, document, paper, map, plan, photograph, film, card, tape recording, electronic data, emails, or other documentary material regardless of its physical form or characteristics) in reference to the installation of a T-Mobile Cell Tower at 922 E. Emery Street in Salt Lake City, Utah - for the time period of January 2014 to the present.

On April 11, 2017, you submitted a GRAMA NOTICE OF APPEAL to the Salt Lake City Recorder claiming that your request had not been fulfilled in the time required by law.

On April 12, 2017, Galina Urry, the City's GRAMA coordinator for the Department of Community and Neighborhoods notified you via email that Utah Code Section 63G-2-204(3)(b) provides the City ten (10) business days to respond to a request for public records and that your request would be fulfilled within that time frame by April 14, 2017.

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On April 14, 2017, Galina Urry advised you that the records requested had been compiled and that there was a charge of \$28.60 for employee time attributable to researching the records. You paid the amount due on that date.

On Saturday, April 15, 2017, you sent an email through the City's online GRAMA request system inquiring as to why you had not received the requested records. You called the City on Monday, April 18, 2017 regarding the status of your records request and you were advised that you could come to the City & County Building to retrieve those records. which you promptly did.

On April 19, 2017, you submitted an appeal of the City's production of public records titled, "GRAMA NOTICE OF APPEAL #2". In that appeal document, you appealed the City's response to your request for public records, claiming that the request had only been "partially fulfilled" and that the City failed to provide an explanation (as required by Utah Code Section 63G-2-205(2)) for why it withheld certain records. Specifically, you cited information in emails that the City did provide in claiming that other records that should have been provided. You quoted the emails and noted in bold letters the other materials you claimed should have been provided.

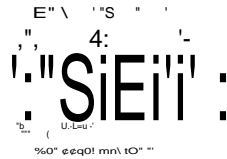
Decision

Your appeal is denied in part and granted in part for the reasons provided below.

Records Identified in the 1/31/17 email of Gregory Nlikolash

Your request for records specifically sought records pertaining to the "installation of a T-Mobile Cell Tower at 922 S. Emery Street". The bulk of what you claim are records that should have been provided in response to your March 31, 2017 request for public records are either not records within the scope of that request or are not public records. One document, however, is within the scope of your request and should have been provided.

Your claim of other records identified in an email from Gregory Mikolash dated January 31, 2017 appears to point to 1) the City's franchise agreement with Rocky Mountain Power, 2) lease documents pertaining to mobile communications providers, 3) a building permit, and 4) a conditional use permit. The City's franchise agreement with Rocky Mountain Power is not within the scope of your request for records "in reference to the installation of a T-Mobile Cell Tower at 922 S. Emery Street" since that agreement was entered into long before and without respect to said location, carrier and installation. The City could not have reasonably assumed



your request to have included that franchise agreement. Your assertion that the franchise agreement should have been provided is, therefore, denied.

Likewise, any lease between Rocky Mountain Power and communications providers was outside the scope of your request. Moreover, the city is not a party to such lease agreements and does not receive or maintain copies of such lease documents. Because those materials are not public records, your appeal as to lease documents between Rocky Mountain Power and communications providers is denied.

Your emphasis on the word "permit" in bold is taken to mean that you believe that documents concerning a building permit were improperly withheld. It appears that there is a building permit that should have been provided with the public records that were produced in response to your request. Your appeal as to that record is granted. That document (building permit BLD2014-06707) is provided herewith.

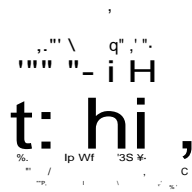
The reference in Mr. Mikolash's January 31, 2017 email to a "CUP", which you have emphasized in bold letters, is taken to mean that you believe a conditional use permit should have been provided. As you will note from a March 27, 2017 email from Mr. Mikolash that you cited in your appeal, a conditional use permit for the mobile communications infrastructure on a Rocky Mountain Power utility pole at 922 S. Emery Street was not required. Moreover, you were notified on April 12, 2017 by Nick Norris, Director, Salt Lake City Planning Division, that the installation of a mobile communications antenna on a utility pole at 922 S. Emery Street "is not regulated by the zoning ordinance." Accordingly, no conditional use permit was required or issued. Since no such public record exists as to a conditional use permit for a T-Mobile cell tower at the address described, your appeal as to issue is denied.

Record Identified in the 1/31/17 email of Heather Gilcrease

Your appeal document emphasizes in bold lettering the words "conditional use receipt" in reference to an email from Heather Gilcrease dated January 31, 2017. This emphasis on those words is understood to mean that you believe that documents concerning a conditional use permit should have been provided by the City. For the reasons stated above regarding the nonexistence of a conditional use permit, your appeal as to that issue is denied.

Record Identified in a 3/37/17 email of Gregory Mikolash

Your appeal next cites a March 27, 2017 email from Mr. Mikolash, wherein you cite the language, "I think we need to let the provider know what's going on." (Emphasis yours). Since there is no discernible record identified in your emphasis of Mr. Mikolash's email, your appeal as to that issue is denied.



Records Identified in an additional 3/27/17 email of Gregory Mikolash

Your appeal identifies in bold lettering the words "the plans" in an additional email from Mr. Mikolash dated March 27, 2017. Given the language of your appeal with respect to citations including bold lettering, the reference to "the plans" is understood to mean technical construction drawings related to the installation of a mobile communications antenna on a Rocky Mountain Power utility pole at 922 S. Emery Street. The City considers such technical drawings to be protected by federal copyright laws. Utah Code Section 63G-2-103(22), which defines "record" for purposes of public records requests, clearly establishes under Section 63G-2-103(22)(b)(iv) that privately owned "material to which access is limited by the laws of copyright or patent" is not a public record. Since the City has determined that "the plans" are not a public record, your appeal as to that material is denied. No explanation for withholding that material was required since the requirement to explain withholding of documents only pertains to withheld public records.

Records Identified in a 3/29/17 email of Darby Whipple

Your appeal document cites a March 29, 2017 email from Mr. Darby Whipple that emphasizes in bold lettering the language, "shows up in Accela" and "all my information from Accela". [ACCELA is the City's document and workflow tracking database for construction and land use development applications. The Citizen Access Portal on the Salt Lake City government website, which you cite in your appeal, provides the public with much of the information and materials managed by ACCELA.] Your reference to Mr. Whipple's email and information regarding ACCELA fails to clearly identify a record or records you believe have been withheld, and your appeal on that issue is, therefore, denied.

Records Identified Pertaining to Building Permits BLD2014-06707, BLD2015-04601 and BLD2016-05192

As mentioned above, a copy of building permit BLD2014-06707 should have been provided in response to your initial records request and is being provided herewith.

The application referenced as BLD2015-04601 was an electronic duplicate of BLD2014-06707 and for that reason was immediately voided and no permit issued. Accordingly, no such permit exists and your appeal as to that issue is denied.

The application referenced as BLD2016-05192 is an electrical permit which results only in the creation of an electronic invoice. That invoice should have been provided with the initial



document production. Accordingly, your appeal on that issue is granted and the document is provided herewith.

Additional Documents not Previously Provided

The City's subsequent review of documents you requested revealed that additional records should have been provided but were not discovered on initial review. These documents are as follows and are provided herewith:

- Email from George Ott to Alan Hardman and Scott Weller dated 9/30/2014
- Email from Daniel Rip to Alan Hardman dated 9/30/2014
- Plan Review Receipt dated 9/15/2014
- Zoning Review dated 9/18/2014

Your appeal document concludes with, "[w]e noted that the 2014 T-Mobile application was 'expired and the 2015 application was 'voided. We have concluded that there must be an existing permit that has not yet surfaced in Citizen Access Portal or in the City's GRAMA response that was issued to T-Mobile in advance of the Cell Tower installation.'" (Emphasis yours). The City's Building Services Division advises that there are no other permits related to a mobile communications structure at 922 S. Emery Street.

Right to Appeal

If you are dissatisfied with this response to your appeal, you may appeal to the Utah State Records Committee (as provided in Utah Code section 63G-2-403) or you may petition for judicial review in district court (as provided in Utah Code section 63G-2-404). You have thirty (30) days from today's date in which to file your notice of appeal or petition for judicial review. Should you file a notice of appeal to the State Records Committee, please direct it to Nova Dubovik, Executive Secretary, State Records Committee, 346 S. Rio Grande, Salt Lake City, UT 84101-1106.

ee±go,n,,

Office of the Salt Lake City Mayor

Cc:file

From: Michael Cldra
To: Norris, Nick
Cc: Mike Harman; Seelig, Jennifer; Zay Angel Alvarez; George Chapman; jason@backofbeyondstudios.com; City Council Liaisons; Leary, Patrick; Whipple, Darby; Mikkelsen, Scott; Representative Sandra Hollins; Representative Angela Romero; Senator Luz Escamilla; Senator Luz Robles; Lance Hemmed; Lance V Hemmed; Navar, Elaine; Parisi, Lauren
subject: Re: Cell Tower Community Meeting
Date: Thursday, December 20, 2018 11:11:17 AM

Nick,

I am pleased to see you express a willingness to answer our questions. As residents, it is our desire to be engaged in the civic process and become co-creators with the City on projects that come into our community. Our ability to successfully partner with the various City departments hinges on our understanding on how the City operates. In your reply to Mike Harman, you state the following:

"I can remember correctly the original Plans that were submitted to the city stating that the antennae were 30 inches or less in diameter. At that size they would have qualified as a permitted use and would not have required the conditional use Process."

We have all of the documentation and recently reviewed them, and we can confirm your recollection of the "Plans" showing that the antenna was 30" in diameter.

We would however dispute your assertion that:

"The Planning Division is not notified of applications for permitted uses because they are not required to go through a public Process."

Nevertheless, we agree with your conclusion:

"What was installed did not match what was shown on the original plans."

As to the "Plans" of the Emery Cell Tower. When we started asking questions about this project in January 2017, the Planning Division and Zoning refused to provide us a copy of the "Plans": In a subsequent GRAMA request to the City our request for the "plans" was denied. As late as April 2017, even our appeal to the Mayor's office did not yield us a copy of the "Plans": In the previous email, I provided a copy of the GRAMA denial letter we received from the Mayor's Chief of Staff, Patrick Leary who stated the following, page 4)

"Your appeal identifies in bold lettering the words 'be plans' ... Given the language of your appeal and in light of citations including bold lettering, the reference to 'be plans' is understood to mean technical construction drawings related to the installation of a mobile communications antenna on the ... utility pole at 922 S. Emery Street. The city considers such technical drawings to be protected by JMRA copy right laws. ... Since the city has determined that 'the Plans' are not a public record, your appeal as to that material is denied."

My point is, that in January of 2017, we went into the planning department to question the size of the antenna on the cell tower that was installed on Emery St. The planner at the counter confirmed that the current ordinance only allowed an antenna in residential area if it did not exceed 30" in diameter. Looking at the picture, she agreed with our conclusion that the antenna far exceeded 30". Moreover, she advised us that they T-Mobile did not obtain the needed permit to install the cell tower. She told us to go across the street and file a complaint with Zoning Enforcement. We did file a complaint with Zoning Enforcement.

On March 28, 2017, In response to our inquiry as to the status of our Zoning violation complaint we received the following response from Scott Mikkelsen, Housing/Zoning Supervisor:

"It appears that we issued a permit for the antenna and boxes back in 2014 for the 922 S. Emery location. ... it appears that a CUP was not required per 21A.40.160 — Ground Mounted Utility

Boxes. It also appears that the antenna met the criteria within 21A.40.090(G.) — Antenna Regulations."

He then quotes the ordinance which included this citation:

"g. Utility Pole Mounted Antenna: Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards: . . . (C) The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use. . ."

He concludes his email by stating

"It appears that the 922 pole, antenna and boxes were adequately reviewed and approved."

On March 30, 2017 in response to our follow up questions he states the following:

"The Permit number for the cell tower project is BLD2014-06707. You will find that the Permit is still open under the inspections status. I've spoke with Les Koch who manages the Permit inspections staff. He scheduled a final inspection to the inspector in that area and any deviations from the approved plans attached to this Permit will need to be corrected. You should be able to research the outcome of the final inspection next week. If you have any questions pertaining to the review Process it would be best to take them to the Permit Department of Building Services where the actual review Process takes place. I hope this helps."

Our call to the inspections department went unanswered. The permit shows that on March 31, 2017:

'Cell tower upgrade complete. CLOSED"

With the notation that inspection is "Complete" and marked pass by JV.

In some frustration, we reached out to you via phone and email. On April 12, 2017, you replied via email:

"Regarding the plans and the picture you provided, the cell antennae are located on a utility pole. For the cell tower referenced in your emails, the zoning ordinance does not require a conditional use. I apologize for any confusion that may have been caused by our staff that incorrectly identified the utility pole as a monopole."

In conclusion, we want to make it clear that we get the part where you say to Mike Harman:

'What was installed did not match what was shown on the original plans"

We too, came to that conclusion, once we obtained a copy of the "Plans" (summer of 2017), only after we filed a GRAMA Notice of Appeal with the State Records Committee. The questions we now pose are within the context of our initial complaint, in the absence of the "plans" we were comparing what was out on the street with the ordinance:

"The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use. . ."

Currently, these are the questions that we have:

1. How is it that an investigator in Zoning concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?
2. How is it that an inspector in Building Permits concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?
3. How is it that the Planning Director concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that

set the limit at thirty inches (30")?

4. How is it that the Mayor's Chief of staff concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?

Uri abrazo,

Michael Cldra
M: 801-205-0389

On Thu, Dec 20, 2018 at 6:38 AM Norris, Nick <Nick.Norris@slcgov.com> wrote:

Thanks Mike. If I remember correctly the original plans that were submitted to the city showed that the antennae were 30 inches or less in diameter. At that size they would have qualified as a permitted use and would not have required the conditional use process. The Planning Division is not notified of applications for permitted uses because they are not required to go through a public process. What was installed did not match what was shown on the original plans. Hope that helps. We are happy to answer any questions anyone has. Please note that I will be out of the office starting Friday and won't return until the 7th, but the Planning Division will be prepared to answer any questions about the conditional process at the open house.

Nick

Sent from my iPhone

From: Michael Cldra
To: Seeliq, Jennifer
Cc: Norris, Nick; Mike Harman; Zay Angel Alvarez; George Chapman; jason@backofbeyondstudios.com; City Council Liaismts; Leary, patrick; whipple, Darby; Mikkelsen, Scott; Representative Sandra HQ||inS; Repre\$entative Ange|a Romero; Senator Luz Escamilla; Senator Luz Robles; Lance Hemmed; Lance V Hemmed; Navar, Elaine; Parisi, Lauren; Salazar, Nate
Subject: Re: Cell Tower Community Meeting
Date: Friday, December 21, 2018 12:17:36 PM

Dr. Seelig,

Thank you for the reply. You are correct, on page 4 of his April 26, 2017, GRAMA denial letter he is maintaining the position that the cell tower plans that T-mobile submitted to the City for 922 S. Emery St. were protected and would not be released to us. We disagreed with that classification and upon filing an appeal with the State Records Committee a copy of the plans were produces.

My question was in reference to his statement on page 3 of his April 26, 2017, letter. In response to my request for a copy Conditional Use Permit (CUP), he maintained the position that the Cell Tower was in compliance with City ordinance and no CUP was required. More specifically he stated:

"Tbe re/Crence in Mr. Mikolasb's Januarj 31, 2017 email to a "CUP", whicb you bai'e emPbasifed in bold letters, is taken to mean that _you belie»e a conditional use Permit sbould baue been j'rooded. .Asj'ou n'll note from a Marcb 27, 2017 emailjhm Mr. Mikolasb that,you cited in your at'Peal a conditional use Permitfor tbe mobile communications infrastructure on a Rocky Mountain Power utilijj Poie at 922 S. Emerj Street was not required. Moreoi'er, _you were notlped on APri'l 12, 2017, gy Nick Nom's, Director, Salt Lake Cijjv Planning Dii'ision that tbe installation ofa mobile communications antenna on a utz7ijj jt'ole at 922 S. Emerj Street "is not regulated by tbe <oning ordinance". Accordingly, no conditional use Permit was required or issued. Since no such j'ublic record exists as to a conditional use Permitjbr a T-Mobile cell ton'er at tbe address desm'bed, your aPPeal as to issue is denied. "

The response we received from Mr. Leary was frustrating. At that point, we submitted a GRAMA request becasue we had encountered an Investigator who did not investigate, an Inspector who did not inspect and a Director who did not director. We had expected the Mayor's Chief of Staff to intercede md at the very least, put a stop to the continued obfuscation that we were encountering. Instead it appears that he too misdirected us.

After obtaining the documents that we were initially denied, we were able to determine that the civil servants that we were communicating with us up to that point, were not

being truthful with us. We are now trying to ascertain the motives behind the deceptions. We were hoping to reach some understanding in advance of the open house.

Uri abrazo,

Michael Cldra
M: 801-205-0389

On Thu, Dec 20, 2018 at 4:01 PM Seelig, Jennifer <jennifer.Seelig@slcgov.com> wrote:

Hi Michael. T hope that this finds you well. T too look forward to the open house; T could use some clarification on this broad issue. T'm tackling your number 4. Question — at least as T am interpreting it. Everything else T will need to address at the open house, or when T return from holiday. Thanks again! Jen

4. How is it that the Mayor's Chief of staff concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?

Patrick Leary's response was to whether or not the plans requested were a record under GRAMA. He wasn't making a determination about compliance with the ordinance. Under Utah Code section 63G-2-103(22)(b)(iv), "material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision" is not a "record." The plans were copyrighted which means that they were not subject to a records request.

Jennifer Seelig, Ph.D.

Director of Community Empowerment

O: 801-535-7117

M: 801-558-9368

OFFICE of the MAYOR

SALT LAKE CITY CORPORATION

WWW.SLCMAYOR.COM

From: Michael Cldra
To: Seeliq, jennifer
Cc: Mike Harman; Zay Angel Alvarez; George Chapman; jason@backofbeyondstudios.com; City Council Liaisons; Leary, Patrick; Whipple, Darby; Mikkelsen, Scott; Representative Sandra Hollins; Representative Angela Romero; Senator Luz Escamilla; Senator Luz Robles; Navar, Elaine; Parisi, Lauren; Lance Hemmed; dionnnielsen@yahoo.com; swabyrealestate@gmail.com; Norris, Nick
subject: Re: Seelig response RE: Cell Tower Community Meeting
Date: Monday, January 7, 2019 2:14:59 PM

Dr. Seelig,

I don't want to quibble about how we categorize the actions of city staff as "dishonest" or "mistakes" on this issue. Moreover, I see no need to get bogged down in the steps of the "conditional use" process because clearly, the members of the Poplar Grove Neighborhood Alliance understand that process better than the Planning, Zoning, Building Inspections etc...

We are more concerned about how we arrived at the "outcome", where an illegal cell tower was allowed to be installed in our westside community. That is the frustrating part, it appears that these types of "mistakes" occur on the westside on a consistent basis. We understand that part that government is made up of people that make mistakes. For the most part, in our personal or private relationships we are forgiving because the glue of those relationships is self-giving love where we are often bound by commitments, as well as blood and genes etc...

In contrast, from a Community Organizing perspective, we view our public relationships through a different lens. We believe that our public relationships are open, formal, capable of withstanding scrutiny, above board. The glue of a public relationship is also different from our private ones. The ground rule is quid pro quo - "you help me, I'll help you" within the context of making and keeping public promises and about how to hold and be held accountable. It has been our experience that enlightened self-interest not self-sacrifice is what makes a public relationships work. This is the world of exchange, compromise, and deals -the world of contracts, transactions, policy, ordinance and law.

By way of illustration, back in August of 2017, the Poplar Grove Neighborhood Alliance had a problem with the way aspects of Operation Rio Grande was being executed and the negative impact it was having on our community. When one to one meetings, emails and phone calls with public officials broke down, we called for a public accountability session. That meeting was attended by the Speaker of the Utah House of Representatives, other Utah Senators and Representatives, Commissioner of Public Safety, Salt Lake City Mayor, Salt Lake City Council members, Salt Lake City Chief of Police etc... we documented every word that was uttered by an elected or appointed official and for the next year we held them to their word. For our group, the public accountability sessions act as a Rite of Solidarity between our Alliance and the public official. As you were aware, members of the community shared their stories with officials. The invited officials expressed their willingness to work with members of the community and resolve the concerns expressed. During 2018 we were able to develop many public relationships that to this day remain strong because of the trust that has been built as a result of that public official keeping the commitments made at that accountability session.

One such example would be the Salt Lake City Police Department. Chief Brown in essence made a bond with our group, that evening because he publicly committed to supporting our proposals. In turn, our public relationship with him and those in command at SLCPD continues to go stronger as we work together as partners, or neighbors for the good of the community. That only comes about because the Chief has chosen to share power with those in the community by treating us citizens. As a result of that relationship, we are able to engage in conversation with any level of the police department about issues that concern us. We don't expect that we are going to get everything that we want. Nevertheless, we know that we are always welcomed to broach any subject of police operations and conduct and it will be met with an attentive ear. We know that we will have influence on future police behavior in our community. This is the type of equilibrium we hope to achieve with all levels of City government.

In contrast, our relationship with the Planning Division and Zoning is one of domination where they have inappropriately exercised all the power over us. In this case, POWER minus ACCOUNTABILITY equals DOMINATION. We want to correct that imbalance and bring our relationship with these two divisions closer to some state of parity.

We believe that the remedy for the arbitrary power that has been exercised over us, is public accountability. In other words, we want to interact with all City Department within the culture of accountability which means that our public relationship is one where we share the responsibility of shaping and reshaping the City's basic arrangements, policies, resources etc... In this culture, City staff recognize and respect our role as citizens and our right to participate in our resources and programs come into our community.

The current balance imbalance between us and the Planning and Zoning Divisions is unacceptable. I hope you recognize that we are angry about the current state of our relationship and that we have no intention of playing our assigned roles as objects of pity or beneficiaries of inappropriate, rationalized decision makers.

In other words, we are a group prone to oppose domination which must insist on a City government marked by mutual recognition and democratic responsibility. Acknowledging that we have been wronged on this Cell Tower issue, is an important first step. Nevertheless, it's frustrating that once there is an acknowledgment from the City, the responses we receive from the Planning Director is more obfuscation. Or as Jason Seaton, puts it, "there is a lot of dancing around this...". At what point do we receive believable and credible responses to our questions?

Uri abrazo,

Michael Cldra
M: 801-205-0389

On Fri, Jan 4, 2019 at 3:29 PM Seelig, Jennifer <jennifer.Seelig@slcgov.com> wrote:

Hey Michael. I apologize for not understanding your inquiry the first time around, and a super appreciate the clarification. In your email dated 12/20/18, you ask a series of questions regarding how city employees could have come to a series of conclusions that were ultimately found to be incorrect or disputed (State Records Committee). The email additionally asserts that the civil servants were not being truthful. In researching this issue I have come to the understanding that yes, mistakes were made by the city in 1) determining compliance of the installed antenna with the applicable regulations, and 2) communicating the issue between city divisions. People were operating under the information they had at the time and were making the decisions that they believed to be correct. In other words, I'm drawing a distinction between "not being truthful" and being in error. As a fellow human, I myself have tripped up in the past on various situations / issues, and that is what has occurred here. Government is all of us - us being people with all of our outstanding and faulty qualities rolled into one. Once the city determined that the antenna was not compliant, the noncompliance was corrected by requiring the antenna owner to go through the appropriate process - conditional use. Thank you for your diligence in reviewing this matter; the community's attention helps us be better - this is especially important with the cell tower situation because it is multi-jurisdictional, much of it is outside of the city's control, and it is rooted in an ever-changing regulatory landscape. All involved entities on the city's end have embraced the learning opportunity, and we will move forward in a more

productive fashion. I apologize for the frustrations you have experienced in putting the puzzle pieces together. You have spent a lot of energy and time on this and your efforts are appreciated. I encourage all to attend the open house that has been mentioned for further discussion. Thanks much, Jen

From: Michael Cldra [mailto:donmigueklc@gmail.com]

Sent: Friday, January 4, 2019 7:17 AM

To: Norris, Nick <Nick.Norris@slcgov.com>

Cc: Mike Harman <harman@xmission.com>; Seelig, Jennifer <jennifer.Seelig@slcgov.com>; Zay Angel Alvarez <Zay.Alvarez89@gmail.com>; George Chapman <gechapman2@gmail.com>; jason@backofbeyondstudios.com; City Council Liaisons <City.Council.Liaisons@slcgov.com>; Leary, Patrick <Patrick.Leary@slcgov.com>; Whipple, Darby <Darby.Whipple@slcgov.com>; Mikkelsen, Scott <Scott.Mikkelsen@slcgov.com>; Representative Sandra Hollins <sholhns@le.utah.gov>; Representative Angela Romero <angelaromero@le.utah.gov>; Senator Luz Escamilla <lescama@le.utah.gov>; Senator Luz Robles <lrobles@utahsenate.org>; Navar, Elaine <Elaine.Navar@slcgov.com>; Parisi, Lauren <Lauren.Parisi@slcgov.com>; Lance Hemmert <lance.hemmert@gmail.com>; dionnnielsen@yahoo.com; swabyrealestate@gmail.com
subject: Re: Cell Tower Community Meeting

Nick,

I do want to acknowledge that many of us are gratified that the City is taking steps to rectify this situation. I have attached a picture of an April 2018 community meeting that we had with Dr. Seelig. The purpose of that meeting was to share with her our civic engagement experiences with the various City departments. On that list we shared our frustration with this Cell Tower issue. Following that meeting with Dr. Seelig, we started to see movement on this issue and for that we are grateful.

I echo Lance's insights and questions in "moving forward". Equally, I believe that it is important to understand "who

dropped the ball". Following our April meeting with Dr. Seelig, it was our intent to have follow up meetings on each issue we discussed in an effort remove the barriers to civic engagement. Currently, in our relationship with the Planning Department, we want to move away from non-participation due to manipulation to one of citizen empowerment due to a partnership. In order to achieve that transition we have to understand what can we do different in our future interactions with the Planning Division.

For example, I get the part that the Planning Division will not convene a public hearing on a conditional use if they are not aware of the need for one. However, in this case you were aware. In January 2017 we went to the Planning Division to ascertain what process T Mobile followed to install the Cell Tower. The Planner at the counter confirmed our suspicion that an antenna array with a diameter of 6'11" is not in compliance with the City ordinance that only allows for a 30" in diameter antenna array. That Planner instructed us to go to Zoning Enforcement and file a complaint. We did that and the Zoning Investigator and Buildings Inspector both claimed that the Cell Tower was in compliance.

In some frustration we went to you. You and I spoke on the phone, we dropped off paperwork at your office and we had an email exchange. I have cut and pasted the text of that exchange below.

You will note that on April 11, 2017 - you reply that "...I will

have someone look into, to determine if conditional use is required". The following day, you declared that a conditional use was not needed. And you apologized for the Planner telling us that this Cell Tower was out of compliance.

When you had someone look into it, what did they look into? Why Did you declare that the Cell Tower was legal if the plans showed three antenna and the picture showed six? It is imperative that we understand what happened at that juncture because it informs us on how to address these types of issues in the future.

Partial Text of email exchange between Michael Clara and Nick Norris in April 2017:

From: Michael Clara
Sent: Tuesday, April 11, 2017 3:32 PM
To: Norris, Nick <Nick.NQrris@S|CgQv.CQm">
Cc: johnston, Andrew <Andrew.jQhnstQn@s|cgQv.cQm>; City Council Liaisons <CitV coljncil liaisons@slcgov.com>
subject: Fwd: 922 S Emery Cell Tower #2

Nick,

I am forwarding you the email exchange I had with Scott Mikkelsen of Zoning Enforcement wherein he tells us that there is no zoning violation. In order to make it appear that T-Mobile had a permit to do this installation he went back (April 2017) and opened the 2014 "expired" permit and assigned the installation for inspection. Really? Permits expire after 180 days of no activity. How is an inspector tasked with ensuring zoning ordinances are followed able to activate an expired permit? To that end, we have submitted a GRAMA request and in addition to going to the City Council ask the State Auditor to look into this practice if this can't get resolved on your level. Thank you so much for your attention to this matter.

I have also attached a graphic showing the current zoning. The picture on the left is a google picture showing the existing utility poles from last summer. the picture on the right shows that they replaced the existing utility pole and added the mono-pole with the six antennas.

Uri abrazo,

Michael Clara
Community Organizer
Crossroads Urban Center

From: "nick norris"

To: "Michael Clara"

Cc: "andrew johnston" <Andrew.johnston@slcgov.com>, "city council liaisons" <City.Council.Liaisons@slcgov.com>

Sent: Tuesday, April 11, 2017 4:11:26 PM

Subject: re: 922 S Emery Cell Tower

Thanks Michael. I will have someone look into this further to determine if a conditional use is required.

NICK NORRIS

Planning Director

PLANNING DIVISION

COMMUNITY and NEIGHBORHOODS

SALT LAKE CITY CORPORATION

From: Norris, Nick

Sent: Wednesday, April 12, 2017 8:35 AM

To: 'Michael Clara'

Cc: Johnston, Andrew <Andrew.johnston@slcgov.com>; City Council Liaisons <City.Council.Liaisons@slcgov.com>; Mikkelsen, Scott <SCQt.Mikke|sen@slcgov.com>; Paterson, Joel <joel.paterson@slcgov.com>; Whipple, Darby <Darby.Whipple@slcgov.com>
subject: re: 922 S Emery Cell Tower #2

Michael,

After reviewing the plans and the picture you provided, the cell antennae are located on a utility pole. The picture you provided show electrical distribution wires attached to the pole. While the pole is clearly new, the pole is not regulated by the zoning ordinance. The pole is also located in the public right of way. Celltowers on utility poles that are located in the public right of way are considered permitted uses according to ordinance 21A.40.090.E.2.g. Furthermore, the plans submitted in permit BLD2014-06707 show that the antennas on the pole have a diameter of 30 inches. This is the dimension that is permitted by ordinance. For the cell tower referenced in your emails, the zoning ordinance does not require a conditional use.

I apologize for any confusion that may have been caused by our staff that incorrectly identified the utility pole as a monopole.

Nick Norris

Planning Director

PLANNING DIVISION

COMMUNITY and NEIGHBORHOODS

SALT LAKE CITY CORPORATION

That ends the text of the Clara & Norris email exchange from 2017. Attached is a picture of the April 2018 meeting we had with Dr. Seelig.

From: Michael Cldra
To: Seeliq, jennifer
Cc: Norris, Nick; Mike Harman; Zay Angel Alvarez; George Chapman; jason@backofbeyondstudios.com; City Council Liaisons; Leary, Patrick; Whipple, Darby; Mikkelsen, Scott; Representative Sandra Hollins; Representative Angela Romero; Senator Luz Escamilla; Senator Luz Robles; Navar, Elaine; Parisi, Lauren; Lance Hemmert; dionnnielsen@yahoo.com; swabyrealestate@gmail.com
subject: Re: Seelig response RE: Cell Tower Community Meeting
Date: Tuesday, January 8, 2019 8:50:33 AM

Dr. Seelig,

Unfortunately, last night's meeting did nothing (for me) in advancing an understanding to this Cell Tower mystery. I am attaching a picture I took where the meeting took place, in the hallway on the fourth floor. I ask that you take note of the guy in the background, driving that machine around. As we started talking, he shows up and drives the machine in circles on the fourth floor. I suffer from a hearing loss and have a hard time hearing what is being said in the echo chamber created by the design of the building that we were in. With machine blaring in the hallway echo chamber, I could hear nothing. I then explained to Nick that it made no sense to me, to hold a public meeting in the hallway while the floor is being cleaned with machine that is louder than the conversation we were having. Nick advised us that he called the cleaning crew and asked them not be on that floor because a meeting was being held. Nick then sent someone to ask him to stop cleaning the floor. That only made it worse as the guy kept driving in circles. I then left because it was a waste of my time to attend a public meeting that I could not participate in. Before leaving the building, I did go find the cleaning crew supervisor and asked her why they would have a loud floor cleaning machine in operation at a public meeting, after being informed that a meeting was going to be held on the fourth floor. She replied that she received no such notice.

My question to you is, why hold a meeting in the hallway while the floors are being cleaned with a loud machine? Or was that done on purpose? It was a Monday night and it appeared to me that many rooms were available to hold a meeting where people could be comfortable and have a dialogue about this issue. Moreover, if the City is really interested in having input on this issue, it would have been better to host an Open House at Parkview Elementary a few feet from the Cell Tower and at the same time, closer to where the people live, those being impacted by this oversight. Instead, it appears that the location is chosen with utmost attention given to the convenience of the Planning Director, in the hallway, a few feet from his office. This feeble attempt at outreach just exacerbated an already intolerable set of circumstances on this issue.

Because, I left, I did not have the opportunity to share with Nick that the problem I have with his explanation: by the time we reached out to him in April of 2017, the zoning enforcement and inspection part of this issue had already been completed. We went to the Planning Director because we were questioning the outcome of those two processes. So, I am not understanding how he is saying that that his email of April 12, 2017, influenced the enforcement and inspection process that occurred the previous month.

Additionally, at that time, I forwarded to him the March 28, 2017, emails that we received from Scott Mikkelsen, Zoning Enforcement. In that email Scott informs us of the following determination:

"It appears that the 922 j't'ole, antenna and boxes were adequately reMen'ed and at'Prol'ed. "

In response, we sent him an email asking for the permit number that T-Mobile was issued to install the Cell Tower and antenna. On March 30, 2016, he informed us of the following:

"The j'ole itself is on'ned by Rocky Mtn Pon'er and they are resPonsible for any n'ork conducted to rePlace the j't'ole and no Permit from SLC is required to do so. "

He also informed us:

"!The scheduled a j'Gnal insPection on to the insPector in that area and any del'iations from the at'j'broled j'lans attached to

this Permit will need to be corrected. "

We later determined that he was in error when he said that Rocky Mountain Power does not need to obtain a permit. We found it odd that he was telling us that he scheduled a "final inspection" with building services and that tiny deviations from the approved plans. ...will need to be corrected.

It was at that point that we went to the Planning Director, in some frustration we explained via phone and email that we were confused, because on the one hand Scott Mikkelsen informed us that the Cell Tower and antenna was in compliance with City Ordinance and at the same time he tells us that the Inspector from another department will correct any deviations between the plans and what was out on the street.

We went to the Planning Director requesting that he review the determination of Zoning and Inspections department.

On April 12, 2017, Nick Norris replied in part:

"Regarding the plans and the Picture you provided. ...the antennas on the pole have a diameter of 30 inches. That's the dimension that is permitted by ordinance. For the cell tower referenced in your emails, the [zoning ordinance does not require a conditional use. "

Even if I was to accept Nick Norris's explanation that there was a communication misunderstanding, what explanation is there for the conclusions reached by the Zoning Officer and the Building Inspector? What is it that they investigated and inspected to make the determination that T-Mobile complied with the Ordinance for Cell Towers in a residential zone?

Additionally, in April of 2016, in response to a GRAMA request. We received two emails written by Greg Nikolash, Development Review Supervisor. One was written on January 31, 2017, sent to Darby Whipple, the Building Services Manager. Greg states the following:

"These cell array being located in the public way are fine. I've had a Franchise Agreement with RMP for their poles in the City and then the use of the poles are leased to cell companies. We require a Permit and a CUP in most cases from the cell companies to install the array on the poles. RMP owns to build their poles are placed in the dirt that the City owns. That's a good thing. "

His explanation is consistent with where we are at today. Yet it was in conflict with the 2017 response we received from Zoning Enforcement and the Planning Director. In other words it appears that internally, City staff was aware that a conditional use permit should have been applied for. So, the question we have, what was the motive to mislead us?

The last question I will pose in this email, is why is the illegal Cell Tower still in place? We have paperwork showing that as early as May 2018, City staff admitted amongst themselves, that the Cell Tower array was out of compliance with City Ordinance. Why didn't Zoning Enforcement order it to be removed? WHY is it still there 8 months later? The ordinance calls for a fine to be levied for noncompliance, is T-Mobile being fined?

Uri abrazo,

Michael CIdra
M: 801-205-0389

On Mon, Jan 7, 2019 at 4:07 PM Norris, Nick <Nick.Norris@slcgov.com> wrote:

Mr. Clara et al,

On December 20th you posed the following questions to me and others within the City:

Currently, these are the questions that we have:

1. How is it that an investigator in Zoning concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?
2. How is it that an inspector in Building Permits concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?
3. How is it that the Planning Director concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?
4. How is it that the Mayor's Chief of staff concluded that a cell tower antenna installed on Emery St. with a diameter of over six feet was in compliance with the ordinance that set the limit at thirty inches (30")?

The first inquiry on this cell tower that I received was on April 11, 2017. While I don't supervise or direct the staff of the building permits office or zoning enforcement, I do think that my response to your April 11, 2017 email led to confusion and a delay in the enforcement process. The initial inquiry to me was asking about an illegal "monopole" located on Emery Street. The email from you stated that cell towers were only allowed in residential zones if they are wall mounted. I inquired with my staff after I received your email to see if anyone knew about the pole in question. After discussing it, we determined that the pole in question is not a monopole but rather a utility pole based on the definitions within the zoning ordinance. A utility pole is permitted by right in residential zoning districts and the zoning ordinance does not regulate height, spacing, or design of the utility pole. The zoning ordinance does allow cell antennae to be attached to an utility pole in residential zoning districts. My email to you in April 2017 should have been more clear about cell antennae on utility poles within the right of way being permitted if the antennae array is less than 30 inches and a conditional use being required if the array exceeded 30 inches. In hindsight, the enforcement process would have been quicker if my response was more clear and if I asked questions regarding the known width of the array vs. what was on the submitted plans.

Hopefully you find this information helpful. I would like to work on rebuilding the trust with you and your neighbors so that moving forward a more productive conversation can occur on land use and planning related issues.

Nick Norris

Planning Director

From: Michael Cldra
To: Parisi, Lauren
Cc: BATMAN; lance.hemmert@yahoo.com; jason@backofbeyondstudios.com
subject: Re: SLC Planning Division Meeting Information - Conditional Use for Antenna Array at 922 S. Emery
Date: Monday, January 14, 2019 10:28:05 AM
Attachments: ClaraNorrisEmail331.pdf
ClaraMikkelsenNorrisEmaUEExchangeApriR017.pdf
CellTowerFactSheet.pdf
071017AjemaUCellTower.pdf
013117TmobileZoningComplaint.pdf

Thank you for the clarification. Tt concerns me that no one in our group was contacted about the November 2018 administrative hearing.

T am also troubled by many aspects of the November 15, 2018 Staff Report. Accordingly, I am attaching five documents, that I believe should be part of the public record and will serve to counter the claim that "no comments were submitted by the public". It should also be noted that the City needs to stop utilizing the Community Councils as gatekeepers for information to residents. Tn this case, the leadership of both community councils are ware that residents have concerns about this issue, yet they made no effort to notify residents individually or collectively of the administrative hearing.

When will a new staff report be available for review?

Uri abrazo,

Michael Cldra
M: 801-205-0389

On Mon, Jan 14, 2019 at 9:14 AM Parisi, Lauren <Lauren.Parisi@slcgov.com> wrote:

Hi Michael,

Yes, I actually made a mistake the last time around and didn't hold the required open house before that hearing, so we went back and redid the open house as you know and now we're redoing the required public hearing to ensure that this application is processed correctly and everyone gets a chance to voice their opinion. I apologize for the confusion.

Best,

LAUREN PARISI

Principal Planner

PLANNING DIVISION

DEPARTMENT OF COMMUNITY and NEIGHBORHOODS

SALT LAKE CITY CORPORATION

TEL 801-535-7226

FAX 801-535-7750

<https://www.slc.gov/planning/>

From: Michael Cldra [mailto:&nmiguelslc@gmailcom]
Sent: Sunday, January 13, 2019 8:49 PM
To: Parisi, Lauren <Lauren.Parisi@slcgov.com>
Cc: BATMAN <harman@xmission.com>; lance.hemmert@yahoo.com;
,jason@backofbeyondstudios.com
subject: Re: SLC Planning Division Meeting Information - Conditional Use for Antenna Array at 922 S. Emery

Lauren,

Thank you for the information. It looks like this issue received an Administrative Hearing back in November 2018 and was approved. What is the purpose of another hearing?

Shalom,

Michael
801-205-0389

On Fri, Jan 11, 2019, 5:02 PM Parisi, Lauren <Lauren.Parisi@slcgov.com> wrote:

Thanks, Michael. I will include all of your emails I have been copied on in the staff

report.

As noted in the section of the code pasted below (Conditional Use Chapter - 21A.54.155), conditional use requests for low power wireless telecommunications facilities may be reviewed by an administrative hearing officer. This still involves a public hearing where members of the community will have any opportunity to speak on the matter and, of course, the same standards are used to review the request. Hope this helps clarify things.

Conditional Use Chapter -
<http://www.sterlingcdiners.com/cc/debQQk/getBookData.php?chapterid=4qo88>

Best,

LAUREN PARISI

Principal Planner

PLANNING DIVISION

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TEL 801-535-7226

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<https://www.slc.gov/planning/>

21A.54.155: ADMINISTRATIVELY APPROVED CONDITIONAL USES: H

A. Purpose: The purpose of this section is to establish an administrative hearing process for certain categories of low impact conditional uses as authorized by subsection 21A 54 030B of this chapter.

B. Administrative Review: Conditional uses that are authorized to be reviewed administratively are:

1. Applications for low power wireless telecommunication facilities that are listed as conditional uses in subsection ?1A 40 090E of this title;
2. Utility buildings and structures in residential and nonresidential zoning districts that are listed as conditional uses;
3. Any conditional use identified in the tables of permitted and conditional uses for each zoning district, except those uses that:
 - a. Are located within a residential zoning district;
 - b. Abut a residential zoning district or residential use; or
 - c. Require planned development approval.

From: Michael Cldra [mailto:&nmiguelslc@gmailcom]

Sent: Friday, January 11, 2019 4:37 PM

To: Parisi, Lauren <Lauren.Parisi@slcgov.com>

Cc: Mike Harman <harman@xmission.com>; lance.hemmert@yahoo.com:

jason@backofbeyondstudios.com

subject: Re: SLC Planning Division Meeting Information - Conditional Use for Antenna Array at 922 S. Emery

Lauren,

I do want my emails to be part of the record. Can you help me understand why this is an Administrative Hearing? The last time you and I spoke I understood that this conditional use would go to the Planning Commission.

Un abrazo,

Michael Cldra

M: 801-205-0389

On Fri, Jan 11, 2019 at 4:13 PM Parisi, Lauren <Lauren.Parisi@slcgov.com> wrote:

Hello,

I wanted to reach out to you all to ensure that you received notice regarding the public hearing for the antenna array at 922 S. Emery Street that will be held on January 24th. Please see all of the details below. Members of the public are invited to attend and provide commentary.

Additionally, I believe you have all sent emails to the City regarding this matter in the past. Please let me know if you would like to attach any of those emails or other written commentary to the staff report for the administrative hearing officer to review. If you could let me know/send any new written comments by next Thursday, January 17th, I will attach them to the staff report. Otherwise, I will forward them on to the hearing officer as received.

Please let me know if I can help answer any other questions in the meantime.

Sincerely,

LAUREN PARISI

Principal Planner

PLANNING DIVISION

DEPARTMENT OF COMMUNITY and NEIGHBORHOODS

SALT LAKE CITY CORPORATION

TEL 801-535-7226

FAX 801-535-7750

<https://www.slc.gov/planning/>

SALT LAKE CITY PLANNING DIVISION
ADMINISTRATIVE HEARING AGENDA

January 24, 2019

5:00 p.m.

City & County Building

451 South State Street, Room 126

Salt Lake City, Utah 84111

Conditional Use for Utility Pole Mounted Antenna Array at approximately 922 S Emery Street - Kalab Cox, representing T-Mobile, is requesting conditional use approval in order to modify an existing antenna array and replace six (6) antennas with three (3) antennas that are located on a utility pole in the public right-of-way at approximately 922 S. Emery Street zoned R-1-5,000 Single-Family Residential. The modified antenna array, including the mounting structure, will have a diameter of approximately 39 inches. Section 21A.40.090(E)(2)(8) of the Salt Lake City Zoning Ordinance allows antenna arrays with a diameter of 30 inches or less to be mounted on utility poles by right, but those with a larger diameter must be reviewed as a conditional use. The property is also located within Council District 2, represented by Andrew Johnston. (Staff contact: Lauren Parisi at 801-535-7226 or lauren.parisi@slcgov.com) Petition Number PLNPCM2018-00585

Agenda items may not be heard in the order listed. The Administrative Hearing Officer reserves the right to change the order of agenda items as deemed necessary.

The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two

business days in advance. To make a request, please contact the Planning Office at 801-535-7757 or relay service 711.

Visit the Planning Division website at <http://www.slc.gov/planning> for copies of Administrative Hearing agendas, staff reports and minutes. Please contact the individual Planner for additional information. Staff Reports w/i/ be posted five days prior to the hearing. Minutes will be posted no later than two days after they are ratified. The Notice of Decision will be posted on the Planning Division webpage the day following the hearing.

Zimbra

michael@crossroads-u-c.org

Fwd: 922 S Emery Cell Tower #2

From : Michael Clara <michael@crossroadsurbancenter.org> Tue, Apr 11, 2017 03:31 PM
 Subject : Fwd: 922 S Emery Cell Tower #2 @1 attachment
 To : nick norris <nick.norris@slcgov.com>
 Cc : andrew johnston <andrew.johnston@slcgov.com>, city
 council liaisons <city.counciljiaisons@slcgov.com>
 Bcc : donmiguelslc <donmiguelslc@gmail.com>

Nick,

T am forwarding you the email exchange I had with Scott Mikkelsen of Zoning Enforcement wherein he tells us that there is no zoning violation. In order to make it appear that T-Mobile had a permit to do this installation he went back (April 2017) and opened the 2014 "expired" permit and assigned the installation for inspection. Really? Permits expire after 180 days of no activity. How is an inspector tasked with ensuring zoning ordinances are followed able to activate an expired permit? To that end, we have submitted a GRAMA request and in addition to going to the City Council ask the State Auditor to look into this practice if this can't get resolved on your level. Thank you so much for your attention to this matter.

I have also attached a graphic showing the current zoning. The picture on the left is a google picture showing the existing utility poles from last summer. the picture on the right shows that they replaced the existing utility pole and added the mono-pole with the six antennas.

Uri abrazo,

Michael Clara
 Community Organizer
 Crossroads Urban Center

mobile: 801-205-0389
 Office: 801-364-7765 ext.106

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 Archbishop Oscar Romero

From: "scott mikkelsen" <Scott.Mikkelsen@slcgov.com>
 To: "Michael Clara" <michael@crossroadsurbancenter.org>
 Cc: "Darby Whipple" <Darby.Whipple@slcgov.com>, "sean" <sean@thecrosslands.net>, "andrew johnston" <Andrewjohnston@slcgov.com>, "PATRICK LEARY" <Patrick.Leary@slcgov.com>, "angelatomero" <angelatomero@le.utah.gov>, "lescamilla" <lescamilla@le.utah.gov>
 Sent: Thursday, March 30, 2017 6:10:32 PM
 Subject: Fwd: 922 S Emery Cell Tower

Page 114

Mr. Clara,

The permit number for the cell tower project is BLD2014-06707. You'll find that the permit is still open under the inspections status. We spoke with Les Koch who manages the permit inspections staff and according to him it's not uncommon for contractors who install cell towers to not call for a final inspection. The pole itself is owned by Rocky Mtn Power and they are responsible for any work conducted to replace the pole and no permit from SLC is required to do so.

Any permit under the inspections status is still considered to be open. I've scheduled a final inspection to the inspector in that area and any deviations from the approved plans attached to this permit will need to be corrected. You should be able to research the outcome of the final inspection next week. Enforcement of SLC'S Zoning Ordinance and Existing Residential Housing Code are Civil Enforcement's primary responsibilities. If you have any questions pertaining to the review process it would be best to take them to the permit department of Building Services where the actual review process takes place. I hope this helps.

Scott Mikkelsen
Housing/Zoning Supervisor

CIVIL ENFORCEMENT
Department of Community and Neighborhoods
SALT LAKE CITY CORPORATION

TEL 801-535-6683
FAX 801-535-6131

www.slcgov.com

From: Michael Clara [mailto:michael@crossroadsurbancenter.org]
Sent: Wednesday, March 29, 2017 2:25 PM
To: Mikkelsen, Scott <Scott.Mikkelsen@slcgov.com>
Cc: Whipple, Darby <Darby.Whipple@slcgov.com>; Glendale CC Chair <sean@thecrosslands.net>; Johnston, Andrew <Andrew.johnston@slcgov.com>; Leary, Patrick <Patrick.Leary@slcgov.com>; Representative Angela Romero <angelaromero@le.utah.gov>; Senator Luz Escamilla <lescamiHa@le.utah.gov>
subject: Re: 922 S Emery Cell Tower

Mr. Mikkelsen,

Thank so much for the update. When you state: "It appears that the 922 pole, antenna and boxes were adequately reviewed and approved".

Can you please provide me the Commercial Building Permit Number that authorized T-Mobile to install the Cell Tower at 922 S. Emery St. ?

I would like to review the approval process associated with the issuance of that permit.

Un abrazo,

Michael Clara
Community Organizer
Crossroads Urban Center

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To: "Michael Clara" <michael@crossroadsurbancenter.org>
Cc: "Darby Whipple" <Darby.Whipple@slcgov.com>, "sean" <sean@thecrosslands.net>, "andrew johnston" <Andrewjohnston@slcgov.com>, "PATRICK LEARY" <Patrick.Leary@slcgov.com>, "angelatoromero" <angelatoromero@le.utah.gov>, "lescamilla" <lescamilla@le.utah.gov>
Sent: Tuesday, March 28, 2017 3:41:00 PM
Subject: re: 922 S Emery Cell Tower

Mr. Clara - here's the determination based on our research:

It appears that we issued a permit for the antenna and boxes back in 2014 for the 922 S. Emery location. After reviewing the plans, it appears that a CUP was not required per 21A.40.160 - Ground Mounted Utility Boxes. It also appears that the antenna met the criteria within 21A.40.090(G.) - Antenna Regulations.

g. Utility Pole Mounted Antenna: Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards:

(I) Antennas:

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(B) On an existing pole, the antennas shall not extend more than ten feet (10') above the top of the pole.

(C) The antennas, including the mounting structure, shall not exceed thirty inches (30") in diameter to be considered a permitted use. Antennas with an outside diameter greater than thirty inches (30") shall be a conditional use.

(D) Antennas located in the public right of way shall be a permitted use and shall comply with the standards listed above.

(E) Conditional use approval is required for antennas located in a rear yard utility easement in all residential, CN neighborhood commercial, PL public lands, PL-2 public lands, CB community business, I institutional, and OS open space zoning districts. Antennas located in a rear yard utility easement in all other zoning districts shall be a permitted use and shall comply with the standards listed above.

The antenna activity associated with 970 S. Emery would have required a CUP as monopoles are a Conditional in the OS zone. A permit was never pulled after two CUP'S were applied - one in 2006 and another in 2008.

It appears that the 922 pole, antenna and boxes were adequately reviewed and approved.

Scott Mikkelsen
Housing/Zoning Supervisor

Civil ENFORCEMENT
Department of Community and Neighborhoods
SALT LAKE CITY CORPORATION

TEL 801-535-6683
FAX]mZ?}1S{?cS:PXZ1,,nn,tl,,y

www.slcgov.com

From: Michael Clara [mailto:michael@crossroadsurbancenter.org]
 Sent: Friday, March 24, 2017 8:47 AM
 To: Mikkelsen, Scott <Scott.Mikkelsen@slcgov.com>
 Cc: Whipple, Darby <Darby.Whipple@Sl.cgov.com>; Glendale CC Chair <sean@thecrosslands.net>; Johnston, Andrew <Andrew.johnston@slcgov.com>; Leary, Patrick <Patrick.Leary@slcgov.com>; Representative Angela Romero <a.ange|aromero@|e.utah.gQv,>; Senator Luz Escamilla <|escami||a@|e.utah.gQv,>
 Subject: Re: 922 S Emery Cell Tower

Mr. Mikkelsen,

I was asked by a couple of residents check on the status of the 922 S. Emery St. /Cel1 Tower complaint that was filed with your office on 01/31/17 .

Can you please let me know where the City is at with this issue? The Cell Tower is still there in violation of current zoning ordinances.

Uri abrazo,

Michael Clara
 Community Organizer
 Crossroads Urban Center

mobile: 801-205-0389
 offi ce: 801-364-7765 ext.106

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From: "scott mikkelsen" <Scott.Mikkelsen@slcgov.com>
 To: "Michael Clara" <michael@,crossroadsurbancenter.org>, "Whipple, Darby" <Datby.Whipd".@Sl,cgov.com>
 Cc: "sean" <sean@,thecrosslands.net>, "martiwoolford" <matHwoolford@gmaQ.com>, "andrew johnston" <Andrewjohnston@Sl,cgov.com>, "PATRICK LEARY" <Pattick.Leary.@d,cgov.com>, "SIMONE BUTT,F,R" <Simone.Butlet@sl,cgov.com>, "Amber McClellan" <Amber.McClellan@Sl,cgov.com>
 Sent: Tuesday, January 31, 2017 10:35:59 AM
 Subject: re: 922 S Emery Cell Tower

Mr. Clara - thank you for sending this useful information. I have no immediate answer as to how this all may have slipped through the cracks but Civil Enforcement will try to find some answers to your inquiries and proceed with enforcement accordingly. I've shared this email with Darby Whipple our division manager for his review and input. Feel free to contact me at any time and I'm happy to keep you up to date in regards to any enforcement proceedings we may initiate.

Scott Mikkelsen
 Housing/Zoning Supervisor

Civil ENFORCEMENT
Department of Community and Neighborhoods
SALT LAKE CITY CORPORATION

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FAX 801-535-6131

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Sent: Tuesday, January 31, 2017 9:25 AM
To: Mikkelsen, Scott <Scott.Mikkelsen@slcgov.com>
Cc: sean@thecrosslands.net; martiwoolford@gmail.com; Johnston, Andrew <Andrew.johnston@slcgov.com>; Leary, Patrick <Patrick.Leary.@slcgov.com>; Butler, Simone <Simone.Butler@slcgov.com>; McClellan, Amber <Amber.McClellan@slcgov.com>
Subject: 922 S Emery Cell Tower

Mr. Mikkelsen,

By way of follow up to our conversation, I am submitting the attached T-Mobile Zoning complaint on behalf of the residents listed. I am also including a photo for your review. Let me know if you need any other information from me.

Uri abrazo,

Michael Clara
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Archbishop Oscar Romero



CellTowerEmerygraphic.JPG
162 KB

Zimbra

michael@crossroads-u-c.org

RE: 922 S Emery Cell Tower #2

From : Norris, Nick <Nick.Norris@slcgov.com>
subject : re: 922 S Emery Cell Tower #2

Wed, Apr 12, 2017 08:34 AM

To : 'Michael Clara' <michael@crossroadsurbancenter.org >
Cc :johnston, Andrew <Andrew.johnston@slcgov.com>,
City Council Liaisons
<City.Council.Liaisons@slcgov.com>, Mikkelsen, Scott
<Scott.Mikkelsen@slcgov.com>, Paterson, joel
<joel.paterson@slcgov.com>, Whipple, Darby
<Darby.Whipple@slcgov.com>

Michael,

After reviewing the plans and the picture you provided, the cell antennae are located on a utility pole. The picture you provided show electrical distribution wires attached to the pole. While the pole is clearly new, the pole is not regulated by the zoning ordinance. The pole is also located in the public right of way. Cell towers on utility poles that are located in the public right of way are considered permitted uses according to ordinance 21A.40.090.E.2.g. Furthermore, the plans submitted in permit BLD2014-06707 show that the antennas on the pole have a diameter of 30 inches. This is the dimension that is permitted by ordinance. For the cell tower referenced in your emails, the zoning ordinance does not require a conditional use.

I apologize for any confusion that may have been caused by our staff that incorrectly identified the utility pole as a monopole.

Nick Norris
Planning Director

PLANNING DIVISION
COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

TEL 801-535-6173
Email nick.norris@slcsm.CO))

www.slcgov.com/planning

From: Michael Clara [mailto:michael@crossroadsurbancenter.org]
Sent: Tuesday, April 11, 2017 3:32 PM
To: Norris, Nick <Nick.Norris@slcgov.com>
Cc: johnston, Andrew <Andrew.johnston@slcgov.com>; City Council Liaisons
<City.Council.Liaisons@slcgov.com>
Subject: Fwd: 922 S Emery Cell Tower #2

Nick,

I am forwarding you the email exchange I had with Scott Mikkelsen of Zoning Enforcement wherein he tells us that there is no zoning violation. In order to make it appear that T-Mobile had a permit to do this installation he went back (April 2017) and opened the 2014 "expired" permit and assigned the installation

for inspection. Really? Permits expire after 180 days of no activity. How is an inspector tasked with ensuring zoning ordinances are followed able to activate an expired permit? To that end, we have submitted a GRAMA request and in addition to going to the City Council ask the State Auditor to look into this practice if this can't get resolved on your level. Thank you so much for your attention to this matter.

I have also attached a graphic showing the current zoning. The picture on the left is a google picture showing the existing utility poles from last summer. the picture on the right shows that they replaced the existing utility pole and added the mono-pole with the six antennas.

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Crossroads Urban Center

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To: "Michael Clara" <michae|@crossroadsurbancenter.org>
Cc: "Darby Whipple" <Darby.Whipple@.s|.cgov.com>, "sean" <sean@thecross|ands.net>, "andrew johnston" <Andrew.johnston@.s|.cgov.com>, "PATRICK leary" <Patrick.Leary_@S|.cgov.com>, "angelatomero" <a.n.ge|aromero@|e.utah.gQv>, "lescami|la" <|escami|a@|e.utah.gQv>
Sent: Thursday, March 30, 2017 6:10:32 PM
Subject: re: 922 S Emery Cell Tower

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Scott Mikkelsen
Housing/Zoning Supervisor

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Department of Community and Neighborhoods
SALT LAKE CITY CORPORATION

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Sent: Wednesday, March 29, 2017 2:25 PM
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Cc: Whipple, Darby <Darby.Whipple@slcgov.com>; Glendale CC Chair <sean@thecrosslands.net>; Johnston, Andrew <Andrew.johnston@slcgov.com>; Leary, Patrick <Patrick.Leary@slcgov.com>; Representative Angela Romero <angelaromero@le.utah.gov>; Senator Luz Escamilla <lescami|a@le.utah.gov>
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Emery Street Antenna Array

Page 121

Sent: Tuesday, March 28, 2017 3:41:00 PM
 Subject: re: 922 S Emery Cell Tower

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It appears that the 922 pole, antenna and boxes were adequately reviewed and approved.

Scott Mikkelsen
 Housing/Zoning Supervisor

Civil ENFORCEMENT
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 SALT LAKE CITY CORPORATION

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 FAX 801-535-6131

www.slccgov.com

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 Sent: Friday, March 24, 2017 8:47 AM
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 Cc: Whipple, Darby <Darby.Whipple@slccgov.com>; Glendale CC Chair <sean@thecrosslands.net>; Johnston, Andrew <Andrew.johnston@slccgov.com>; Leary, Patrick <Patrick.Leary@slccgov.com>; Representative Angela Romero <a.angelaromero@leg.utah.gov>; Senator Luz Escamilla <lescami@leg.utah.gov>
 Subject: Re: 922 S Emery Cell Tower

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Uri abrazo,

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Cc: "sean" <sean@thecrossroads.net>, "martiwoolford" <matHwoolford@gmail.com>, "andrew johnston" <Andrewjohnston@slc.gov>, "PATRICK LEARY" <Patrick.Leary@slc.gov>, "SIMONE BUTT, F, R" <Simone.Butler@slc.gov>, "Amber McClellan" <Amber.McClellan@slc.gov>
Sent: Tuesday, January 31, 2017 10:35:59 AM
Subject: re: 922 S Emery Cell Tower

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Scott Mikkelsen
Housing/Zoning Supervisor

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<Amber.McClehan@slcgov.com>
subject: 922 S Emery Cell Tower

Mr. Mikkelsen,

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Un abrazo,

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Poplar Grove & Glendale Residents'

T-Mobile Zoning Violation Complaint

Page | 1 of 2

January 31, 2017

HAND DELIVERED & ELECTRONIC MAIL

Mr. Scott Mikkelsen, Supervisor
% Salt Lake City —Civil Enforcement
349 South 200 East Suite 400
Salt Lake City, Utah 84114
sL'ott.mz'kkelsen@sllg02).com

Re: T-Mobile Cell Tower Installation

Dear Mr. Mikkelsen,

We, the undersign neighbors submit the following complaint for your review as we have reason to believe that T-Mobile installed a Cell Tower at 922 South Emery St. in SLC, which is zoned as RESTDENTTAL. We believe that this installation transpired in violation of Salt Lake City Zoning Ordinances (see attached picture).

On 09/15 /2014: Mr. Terry Cox of T-Mobile applied for a Commercial Building Permit (BLD2014-0607) and erroneously labeled the project Parkview School, as you ate aware, Parkview Elementary is zoned PL for "Public Land" and is located at 970 S. Emery St. In reality, the actual location of the Cell Tower is at 922 S. Emery St. in R-I Single Family Residential Zone.

In the application, Mr. Cox states:

'TMobile is j'lanning on installing there antennas on an existing Pon'er jt'ole in front oftbis ProPenj'. "

The application shows that the City issued a permit on 07/01/2015 and closed out the application.

On 06/24/2015: Mr. Terry Cox of T-Mobile once again applies for a permit stating:

'TMobile made at'Plication BLD2014-06707 it is sbonn'ng e^1)ired, so zpc are reat'pg'ing' "

The application shows that on 07/02/15 the City marked the 2015 application as "VOID" and closed it out.

On 05 /31/16: T-Mobile submitted an application for "Commercial Electrical" (BLD2016-05192) requesting the installation of a 200 amp electrical meter and associated generator to be place on the adjacent private property. Surprisingly, the CITY granted the permit on 06/08/2016. Ironically, the City stated that the installation of the electrical work passed inspection on 08/09 /16.

In the fall of 2016: Contrary to the description in the T-Mobile application they installed a new monopole which did not previously exist and which is double in size of existing "power poles."

In other words, the installation of the antennas were NOT installed on an existing power pole (as described in the application) which would have been permitted if a conditional use permit were granted; which is only possible if the location were not in a Residential Zone. Regardless of the zoning location and the deceptions by T-Mobile in their applications, we can find no valid permit that granted T-Mobile the authorization to imbed a Cell Tower into the heart of our community.

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In conclusion, as residents of Salt Lake City's Westside, we are deeply troubled that the City has neglected the care and maintenance of the 9 Line Parkway Trail. The neglect by the City has allowed the 9-Line to consist of nothing more than a strip of asphalt bordered by a garden of noxious weeds. Within the context of that oversight, it is even more shocking that the City would allow the installation of an eyesore such as a Cell Tower along the neglected 9-Line trail. Moreover, we question why the CITY would issue a permit for a Cell Tower electrical meter, when the Cell Tower itself was not granted a permit for installation. As already cited, the permit applications submitted by T-Mobile were duplicitous, expired, and voided. To that end, we respectfully request that you investigate our complaint and order the immediate removal of the illegal Cell Tower from the heart of our community!

Residents:

Ms. Cathy Hernandez, Poplar Grove Resident

Mr. Mike Harman, Poplar Grove Resident

Mr. Alan Ruelas, Poplar Grove Resident

Mr. Guillermo Miramontes II, Poplar Grove Resident

Mr. Francisco Enciso, Poplar Grove Resident

Mr. Miles Kinikini, Poplar Grove Resident

Mr. Archie Archuleta, Glendale Resident

cc: The Honorable Jackie Biskupski, Salt Lake City Mayor
The Honorable Andrew Johnston, Salt Lake City Council
The Honorable Marti Woolfodt, Poplar Grove Community Council
The Honorable Sean Clossland, Glendale Community Council
Poplar Grove Neighborhood Alliance
Crossroad Urban Center
Neighborhood House

Zimbra

michael@crossroads-u-c.org

RE: LATEST GRAMM APPEAL

From : johnston, Andrew <Andrew.johnston@slcgov.com> Mon, Jul 10, 2017 09:46 PM
 Subject : re: latest GRAMM APPEAL @1 attachment
 To : 'Michael Clara' <michael@crossroadsurbancenter.org >
 Cc : Pehrson, Amber <Amber.Pehrson@slcgov.com>, Norris,
 Nick <Nick.Norris@slcgov.com>

Michael- I will be there Thursday evening. I has an email exchange with Nick Norris shortly after his response to you wherein he said that because it was built in the public right of way, as a utility pole, it wasn't in violation (as my memory serves me). I replied (in a less articulate way than here) that to call this a utility pole is an affront to the term "utility" as it seems to serve no engineering function for the power lines.

Please tell me exactly why you believe that the Planning/ Zoning Depts were in error in saying that no city permit is required for the pole.

Andrew

From: Michael Clara [mailto:michael@crossroadsurbancenter.org]
 Sent: Monday, July 10, 2017 3:05 PM
 To: Johnston, Andrew <Andrew.johnston @slcgov.com>; a nd rewwjohnston <a ndrewjohnston @yahoo.com>
 Cc: City Council Liaisons <City.Council.Liaisons@slcgov.com>
 Subject: Fwd: latest gramm appeal

Councilman Johnston,

I am attaching two documents for your review:

Document #1- is a picture of the Cell Tower "mono-pole" that is suppose to be disguised as a "utility pole"

Document #2 - Is a flyer for this Thursday Night's Meeting

Document #3- Is a copy of the GRAMA Appeal that I sent in May of this year.

As a result of the May 2017 appeal letter, we were scheduled for a hearing this Thursday. I withdrew the appeal after having a conversation last week with City Attorney Paul Nelson.

The attached letter gives you an overview of our concerns. Shortly after submitting the appeal to the State Records Committee, we did receive a copy of the Rocky Mountain Power Franchise agreement. After reviewing the agreement we discovered that staff in the Planning Department and Zoning Department were in error when they advised us via email that no permit was required in order for the Cell Tower to be installed.

We also believe that what is depicted in this picture is NOT in compliance with current Zoning Ordinance. We want to discuss this issue with you on Thursday to see if this is something your office can help solve or will this require additional action on our part. Thanks!

From: Lance Hemmed
To: Michael Cldra; Parisi, Lauren
Cc: BATMAN; jason@backofbeyondstudios.com
subject: Re: SLC Planning Division Meeting Information - Conditional Use for Antenna Array at 922 S. Emery
Date: Monday, January 14, 2019 11:56:53 AM

Hello Ms. Parisi,

Since you're cataloging public comments I'd like to include my response dated 8/3/2018 to Dennis Faris, Chair of the Poplar Grove Community Council when he asked for feedback on 8/1/2108:

"My only input is since this tower will be along the 9-line encasing it in a tasteful art facade would be good. Something along these lines:

<http://www.arch2o.com/telecommunications-tower-rtal>

Granted I'm not suggesting the entire pole be encased, but perhaps some louvers among the arrays could be easier on the eyes than just an industrial and utilitarian array situated along a leisure path. A lot of communities have worked with mobile carriers to camouflage the arrays and towers so they're not an eyesore:

cell phone tower hidden with art - Google Search "

Andrew Johnson was Cc'd on my response along with all the members of the Poplar Grove Community Council.

Since the city is planning to enhance the 9-Line as highlighted in this article:

<https://www.bui|dingsa|t|ake.com/commission-votes-in-support-of-street-c|osu-re-for-9-line-trail/>

and, "the intersections between trails and streets should be considered an opportunity for creating public spaces and highlighting the city's ongoing emphasis on recreation and public art." we can get them to view the utility pole and large array as counter-intuitive to their overall aim with the stated goals of the 9-Line trail.

Or perhaps we can put our heads together and come up with a visual array that synergizes a utility pole and array that abides by city code (reference size, height, width, etc...) and is a beautiful point of interest along the 9-line leisure trail:

cell phone tower hidden with art - Google Search

Please include the attached images as recommendations for a facade that could encase the cell tower and meet the above-stated aims by our city to emphasize public art. I do want to point out one attachment in particular. It's the louvered piece that is set next to the Salt Lake City Public Safety Building. I would strongly suggest the city or company encase the array in louvers, preferably along the lines of what we see in the attachment. This would not only allow for a relatively affordable solution to the cell tower being placed along the 9-line, but also serve as a nice visual for people enjoying the 9-line.

Whatever the case may be I support Michael Clara's efforts to do any of the following:

- 1) Correct the size of the pole and the array so it conforms to city code without an exception to policy AND meets the above-stated goal of being aesthetically pleasing since it's located along a leisure trail.
- 2) Remove and relocate the pole and array out of the Poplar Grove and Glendale neighborhood

footprints.

Respectfully,

Lance V. Hemmert
334 S. Emery St.
SLC, UT 84104
801-502-3915

TEL 801-535-7226

FAX 801-535-7750





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ATTACHMENT H: CITY REVIEW COMMENTS

Engineering (Scott Weiler) –

Engineering will consent to the conditional use for a 39" diameter antenna array (originally approved by SLC Building Services to be 30" diameter) on the existing RMP pole in the public way of Emery Street if T-Mobile first obtains a SLC franchise agreement.

Engineering (Mathew Cassel) –

RMP (Rocky Mountain Power) has indicated that they will not allow a company to use their pole unless they have a franchise agreement with the City. This application slipped by RMP and they have acknowledged that they erred. T-Mobile should not be covered by RMP's Franchise Agreement.

Fire (Kenney Christensen) – Fire would have no objections to the conditional use request PLNPCM2018-00585, to increase the size – or the diameter in particular – of an existing antenna array 30 inches to 45 inches that's mounted on a utility pole in the public right-of-way at 922 S. Emery Street. The number of existing antennas will not change (six total), but three of the replacement antennas will be slightly larger. No new ground mounted utility boxes will need to be installed to accommodate the antenna replacements.

(This review is pertaining to the initial plans submitted for conditional use approval by T-Mobile, which have since been revised to reduce the number and size of antennas. The updated plans were sent to Fire for review, but no additional comments have been received.)

Transportation (Michael Barry) – No issues from transportation.

Zoning (Alan Hardman) – No zoning comments to add per our discussion.