GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: October 10, 2001

SUBJECT: BZA Application 16766 - Request for special exception relief for a non-commercial broadcast antenna monopole and equipment cabinet at the 1421 Kenilworth Avenue, NE, pursuant to §212.

APPLICATION
Application of AT&T Wireless for special exception relief to construct a monopole with a full constructed height of 149 feet and related equipment cabinet in the eastern corner of the site.

AT&T Wireless is a personal communication service (PCS) provider licensed by the Federal Communications Commission (FCC). The proposed monopole location is on property in the C-M-1 industrial zone district.

SUMMARY RECOMMENDATION
OP recommends approval of the application with the condition that the total maximum height be limited to 85 feet, for the following reasons:

- The applicant is a licensed telecommunications service provider.
- The proposed site is an industrial property with an established industrial character.
- No technical justification or evidence has been provided to support the proposed height.
- There are no tall buildings in the immediate area and the topography has a very low elevation of 27 feet.
- A height of 85 feet is not inconsistent with §§ 2520 and 212 and would blend with the existing overhead transmission lines.

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EXISTING ZONING AND SPECIAL EXCEPTION REQUEST
The property is in the C-M-1 industrial zone district. In this immediate area, the C-M-1 industrial district extends approximately 280 feet in width from Kenilworth to Minnesota Avenue. The length of the industrial corridor runs the full length of the railroad tracks along Kenilworth

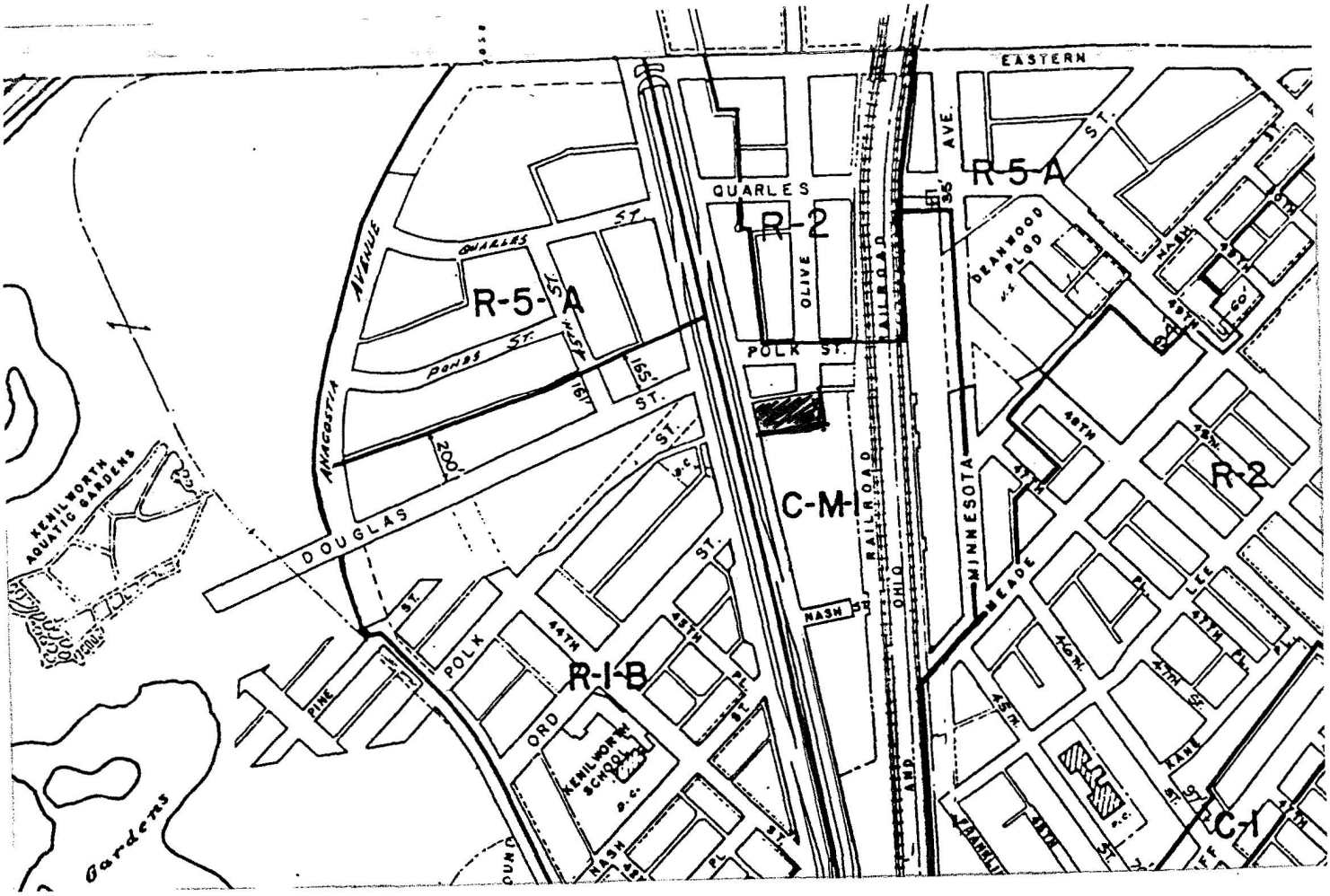
Board of Zoning Adjustment
District of Columbia
CASE NO.16766
EXHIBIT NO.27

length of the industrial corridor runs the full length of the railroad tracks along Kenilworth Avenue from where they cross the river (2 blocks north of Massachusetts Avenue) to the Prince Georges County line.

"The Commercial-Light Manufacturing (C-M) districts shall be intended to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that would minimize any adverse effect on other nearby, more restrictive districts" (§800.1). Section 800.4 also prohibits any new dwelling from being constructed in the C-M zones thus underscoring the non-residential nature and purpose of the zones.

The surrounding neighborhood is predominantly residential and zoned R-2 and R-5-A on the eastern side of Kenilworth Avenue and R-1-B and R-5-A on the western side.

ZONE	Matter of Right Uses	BZA Approved Uses	Height	Roof Structures
CM-1	All commercial uses, hotel, hauling terminal, laboratory, incinerators, dry cleaning establishment, public utility pumping station, repair garage, wholesale, storage, light manufacturing, temporary detention facility (3 yrs)	Recycling facilities, massage businesses	40 feet	18'6" above roof



Monopoles

Monopoles, as defined by the FCC are single, self-supporting pole-type structure, tapering from the base to top, and supporting a fixture designed to hold one or more antennas. Monopoles are not specifically called out in the current zoning regulations but have been determined by the Zoning Administrator's (ZA) office to be most closely related to non-commercial broadcast antennas as regulated by §212. The ZA's office has further required that, regardless of the zone in which they are proposed, they need to obtain a special exception prior to construction.

Section 2520 of 11DCMR establishes the purpose of antenna regulations and is referenced in §212.

§2520: Regulation Of Antennas

2520.1 The purposes for the regulation of antennas as a particular type of structure shall be as follows:

(a) The Zoning Commission has determined that certain antennas, because of their size, shape, design, construction or location, may affect the health, welfare or safety of the population and may detract from the streetscape, landscape, skyline, scenic beauty or aesthetic interests of Washington, D.C. and its role as the Nation's Capital;

(b) The Zoning regulations therefore regulate the size, height, construction, design and location of antennas and antenna structures which have the greatest potential for adverse impact on the health, safety and welfare of the population, and on neighborhood quality, and those which have the greatest potential for adverse impact on the scenic beauty of the Nation's Capital; and

(c) The principal types of antennas regulated are those that, because of their shape and relatively large mass, potentially have the greatest visual impact and include, by example, large satellite earth station antennas and certain microwave terrestrial antennas.

2520.2 If the Zoning Administrator determines that an antenna does not meet the definition of any specific class of an antenna as set forth in §199 of this title, the Zoning Administrator shall determine the class of antenna to which it is closest, and treat the antenna accordingly.

ANALYSIS OF SECTION 212: SPECIAL EXCEPTION RELIEF

The applicant is required to obtain a special exception to allow the construction of an antenna monopole pursuant to §212.1. The conditions and criteria for evaluation of a request are as follows:

The proposed use, location, and related conditions shall be consistent with the purposes set forth in §2520 of this title. (§212.2)

The proposed monopole "use, location, and related conditions" have been evaluated against adverse impact on health, safety and welfare, as well as neighborhood quality, the potential for adverse impact on the scenic beauty of the Nation's capital and the standard of reasonably necessary.

Health Safety Welfare
The issue of environmental health has repeatedly been raised regarding the presence of antennas of all types.

The issue of radio-frequency energy (RF) is a complex one. For the purposes of this application however, the issue is guided by the U.S. Federal Communication Commission's (FCC) RF limits for human exposure. The FCC rules require transmitting facilities to comply with RF exposure guidelines. These guidelines establish RF limits "designed to protect the public health with a very large margin of safety." [1] The FCC requires broadcasters and personal communication service (PCS) providers to certify that their sites are in compliance with RF guidelines. These RF limits have been endorsed by other federal health and safety agencies such as the Environmental Protection Agency and the Food and Drug Administration .

The Telecommunications Act of 1996 provides for the preservation of local zoning authority *but* also prohibits local government or instrumentality thereof, from regulating "the placement, construction, or 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" (§332 (c) (7) (B) (iv)).

The monopole and equipment shelter would be required to obtain a building permit prior to construction from the city's Building and Land Regulation Administration. The building permit would ensure that the monopole and equipment shelter are constructed to full building code standards. The site would be secured by the erection of an eight-foot wooden fence with metal reinforced posts and gate.

Beyond the structural safety of the monopole, another concept of citizen safety is considered through expanded personal cellular service that may be provided if the monopole is constructed.

OP believes the request is consistent with standards of health safety and welfare.

Neighborhood Quality / Scenic Beauty Of The Nation's Capital:
The proposed site of the monopole is an industrial corridor along the railroad tracks and Kenilworth Avenue. Kenilworth Avenue, from East Capitol Street to the District line, is a Special Street as identified by National Capital Planning Commission in the Federal Elements of the Comprehensive Plan For the National Capital ("the Plan"). Kenilworth Avenue is also the primary north-south arterial through this part of the city. The area,

[1] "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance"; FCC, June 2, 2000

however is an industrial corridor also identified in the Ward 7 Plan as Kenilworth Industrial Park (§1803.3).

Special Streets

As a special street, Kenilworth merits special attention. The Plan states "Special Streets should be maintained and enhanced in a manner that promotes their role as major features that help establish the images and the symbols of the National Capital in the minds of its residents and visitors."(§807.1)

Section 807.2 reads "The existing street space and the buildings fronting on Special Streets and places should be maintained, protected, and enhanced. Any repair, maintenance, improvement, or new building should respect the historic elements, enhance the aesthetic quality, and promote the amenity of this space."

OP recognizes that the character of the proposed site, even though it is along a Special Street, is truly industrial. Along with the industrial land uses, there are power transmission lines that parallel the railroad tracks giving the skyline of the foreground a very industrial appearance. There is a small four-five unit brick apartment building diagonally across from the subject site, at the corner of Olive and Polk Streets and north of Polk Street there is a small neighborhood of single family detached residents. The immediate area is well treed which provides a living screen to the foreground and shielding much of the monopole's potential visibility.

It is OP's opinion that monopoles and towers should be proposed only as a last resort for elevating antennas. But if they are necessary, the industrial character and appearance of the monopole is most compatible and least obtrusive in industrial zones.

OP toured the area with the city's archaeologist and the applicant's consultant. OP believes the request could be consistent with the character of the industrial neighborhood and have minimal visibility from the surrounding residential areas if the height were lowered as discussed below.

Height

The City Council has placed a moratorium on monopoles and towers with a height of 150 feet or above. The proposed height of the monopole is 149 feet. OP has met with the representative for the applicant on two occasions and requested technical justification for the proposed height. No justification has been provided. To the contrary, the application states that the "coverage objectives" will be presented as testimony at the hearing. No written materials have been submitted and therefore cannot be evaluated by OP for this report.

The issue of building height within Washington, D.C. is one with a long history. It is of such importance that the height of buildings within Washington is regulated by a congressional act, adopted June 1, 1910. Any height in excess of that permitted by the Act, (130 feet maximum) requires a mayoral approval.

Therefore, in the absence of any technical justification that a lower height cannot provide necessary coverage, OP recommends that the height be limited to 85 feet.

OP reached the limit of 85 feet by considering the maximum building height of the C-M – 1 zone, 40 feet, the maximum height of additionally permitted roof structures, 18 feet-6 inches (§411), and the opportunity for co-location of three service providers, 26 feet (allowing 6 feet of height for each antenna array with a 4-foot separation between arrays). This total height of 84 feet-6 inches recognizes the need for the antennas to elevate above any physical structures that block the antenna reception.

The location and other characteristics of the antenna shall be reasonably necessary for the intended use of the antenna. (§212.6)

The monopole is proposed by a licensed service provider, AT&T. AT&T has stated in their pre-hearing statement that they have "identified the need to place a telecommunications facility within the upper northeast corner of the District of Columbia, specifically to provide wireless telephone coverage along Kenilworth Avenue, Baltimore-Washington Parkway, Deanwood Metro Station and the surrounding environs." (Oct. 9, 2001 Executive Summary) They state their service needs to be improved along the Kenilworth Avenue corridor because of "traffic patterns" (page 2 of the Oct. 9, 2001 submittal). That a monopole of 149 feet is the only way to achieve this has not been addressed.

No evidence has been provided to identify the full extent of the coverage area or the height of the monopole. A lack of such a detail makes it difficult to ascertain the reasonable necessity of the height at this location. OP does recognize, however, that most development east of the Anacostia River is low in nature and this particular location has a very low topographic elevation of 27 feet.

As discussed above, the most intrusive characteristic of the monopole is its height and with no technical evidence provided, OP recommends that the maximum mounted height of the monopole and antennas be limited to 85 feet. The proposed height of 149 feet is uncharacteristic of the neighborhood, will break the low skyline.

The present character and future development of the neighborhood shall not be adversely affected. (§212.7)

The character of the immediate neighborhood is industrial but a small residential area is located just north of the site. The area west of Kenilworth Avenue is predominately residential with a combination of single family and garden style apartments. The natural landscape provides mature and closely offset trees that create a screening from and across Kenilworth Avenue.

OP does not believe the proposed location of the monopole would adversely affect the future development of the neighborhood because of the existing industrial nature of the

property, the overhead transmission lines and the railroad tracks. The industrial character of the pole could blend into this small industrial menagerie if the monopole were limited to a more compatible height.

COMMUNITY COMMENTS

The applicant has provided copies of letters sent to the ANC 7C, Eastland Gardens Civic Association and Deanwood Citizens Civic Association. The applicant reports that they have not received a response to their request for a meeting. OP has also attempted to contact the ANC by telephone and has not received a response.

CONCLUSION AND RECOMMENDATION

The Office of Planning has reviewed the application in terms of the Comprehensive Plan, §2520, §212, the applicable zoning districts, and the character of the neighborhood. OP believes that the granting of the special exception in the industrial zone would be in harmony with the general purposes and intent of the zoning regulations and map.

OP recommends approval of the application with the condition that the total maximum height be limited to 85 feet, for the following reasons:

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OP also notes that the current antenna regulations are being revised and monopoles are within the policy considerations of the revisions. It is anticipated that new antenna guidelines and regulations will be presented to the Zoning Commission later this fall.

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