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April 19, 2004

VIA HAND DELIVERY

Ms. Carol J. Mitten, Chair
The Zoning Commission for the District of Columbia
441 4th Street N.W.
Suite 210 South
Washington, D.C. 20001

**Re: Zoning Commission Case Number 01-02
Proposed Text Amendment on Antennas, Antenna Towers and Monopoles**

Dear Chairman Mitten:

The Zoning Commission has issued a Proposed Rulemaking on the referenced case. As before, we submit this letter on behalf of the three (3) wireless carriers that we have represented in these proceedings: AT&T Wireless Services, Nextel Communications of the Mid-Atlantic, and T-Mobile USA. We want to commend the work of the Office of Planning, the Zoning Commission and all others involved in this long process. With just a few comments and suggestions, we recommend approval of these regulations:

1. Co-location of Antennas on Existing Structures Should Be By-Right.

The proposed regulations contemplate by-right installation of antennas on existing buildings and rooftops (Sections 2604 and 2605), and on Antenna Towers and Monopoles (Section 2608), subject to review by the Office of Planning. However, there are a great many other structures in the District of Columbia that could accommodate antennas, unobtrusively, and would obviate the need for a new tower or monopole. During several of the meetings of the task force, we discussed the many possibilities such as light poles, transmission and distribution poles and other similar tall structures. There are some very creative applications that would allow antennas to be attached to such structures in such a manner that they would be almost undetectable.

**ZONING COMMISSION
District of Columbia**

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Attached please find some examples of antenna installations or wooden distribution poles. Under the regulations as proposed, this is not allowed without a special exception. In the vast majority of other jurisdictions, including in this area Montgomery and Fairfax counties, such an installation would be permitted by-right. In rejecting this idea, the District of Columbia is taking a short-sighted approach, and as a result, may be under pressure to consider new towers and poles instead.

2. Equipment Cabinets and Shelters

Both subsection 2604.1(f) and 2605.1(c) deal with the appearance of rooftop equipment cabinets and shelters. These structures are necessary for the operation of the antenna and wireless system. The text should be corrected to say that the proposed treatments apply only to cabinets and shelters located outside of the penthouse or the building itself.

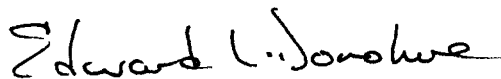
3. Office of Planning Report

Section 2611 states that no new antenna, antenna tower or monopole shall be approved until the Office of Planning has reviewed the application and made its report to the Zoning Administrator. Subsection 2611.2 requires that such report be done within thirty (30) days of application, and subsection 2611.3 sets forth the minimum requirements for the OP report. This codifies a long-standing practice that allowed for OP input and assistance to the Zoning Administrator. We have had very good experiences with this process, and do not, in any way suggest that OP has abused its role. This process has functioned very well over the years.

However, the text is a little vague about the process and should be made more clear. For example, if the OP report recommends against denial of an otherwise by-right application, it must give objective criteria to support this recommendation. Unlike other applications reviewed by DCRA, wireless facilities have been granted specific protections under the 1996 Telecommunications Act. At a minimum, any denial of a wireless facility must be based on "substantial evidence." If the OP report is to serve as the basis for such a decision, the District should require that the report specifically identify the criteria used as the basis for OP's recommendation with these standings in place, we feel there would be less opportunity for dispute over such applications.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edward L. Donohue". The signature is fluid and cursive, with the first name "Edward" being more prominent.

Edward L. Donohue

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Copies:

Alberto Bastida, Office of Zoning

Jennifer Steingasser, Office of Planning

Karen Thomas, Office of Planning

Alan Bergstein, Office of Corporation Counsel

And to:

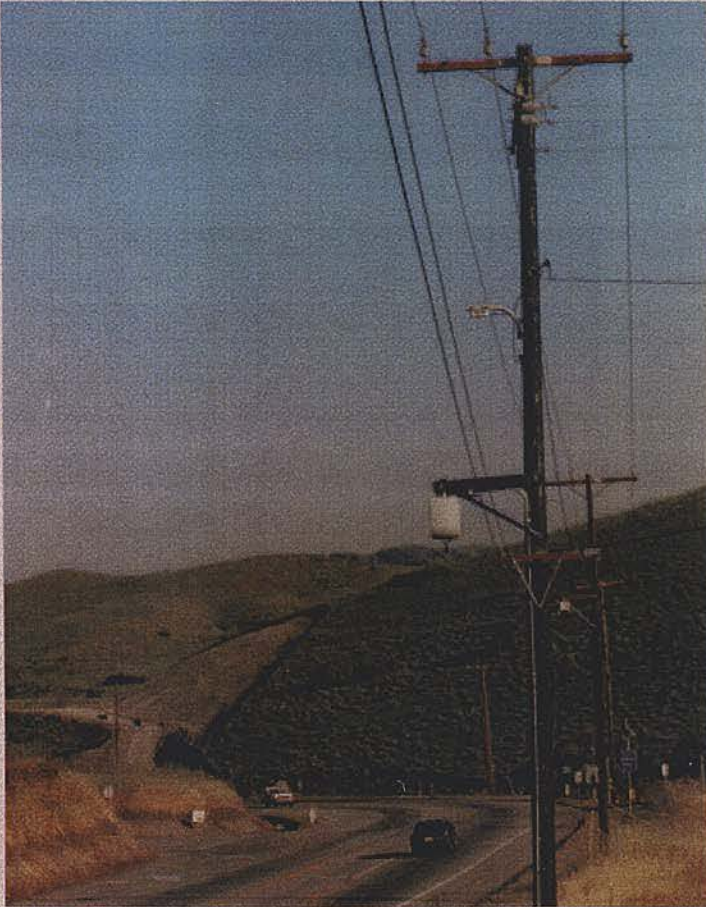
Jay Perez, AT&T Wireless

Tim Brenner, AT&T Wireless

Cathy Muir, Nextel

Steve Weber, T Mobile

Reuse of existing “towers”



Highway site



Utility pole in Kirkland

