



# MEMORANDUM

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DATE: October 14, 2020  
For October 29, 2020 Hearing

TO: John Iurino  
Zoning Examiner

FROM: Scott Clark, Director  
Planning & Development Services

SUBJECT: SPECIAL EXCEPTION LAND USE  
PLANNING & AND DEVELOPMENT SERVICES REPORT  
Zoning Examiner Special Exception Procedure  
SE-20-10 T-Mobile – 1538 W Prince Road, C-2 (Ward 3)

**Issue** – This is a request by Michael Campbell for Crowncastle on behalf of T-Mobile and the property owners, Ernie Hernandez and Roger S Netherton, for approval of a wireless communication facility (WCF). The special exception site is located approximately 275 feet north of Prince Road and 1,600 feet west of Flowing Wells Road (see Case Location Map). The WCF will be placed within a 1,600-square foot (40-foot by 40-foot) lease area in the northeastern corner of a 0.68-acre undeveloped parcel. The preliminary development plan (PDP) proposes a wireless communication tower (monopole) 80 feet in height, in a rust color, with six antennas, and with opportunities provided for future antenna colocations on two separate elevation levels just below the proposed T-Mobile antennas.

T-Mobile has been providing wireless service in the area for almost 20 years. An existing WCF located on a ballfield light pole at Flowing Wells High School was approved and constructed in the early 2000's. The lease for the current T-Mobile wireless communication facility is expiring soon and the antennas will be decommissioned. The new special exception is requested to allow for a replacement site within the coverage search ring. The applicant states in the submitted Design Compatibility Report that the site is a critical component of the T-Mobile network, will provide long-term stability for current service levels in the City of Tucson, and network continuity in the community for emergency services, business and personal use.

A communications use of this type in the C-2 zone is subject to Section 4.9.4.I.6.b of the Unified Development Code (UDC) and requires approval through a Zoning Examiner Special Exception Procedure, in accordance with UDC Section 3.4.3. A public hearing before the Zoning Examiner is required. The Zoning Examiner will render a decision to grant the use with or without conditions, or to deny the use. The Zoning Examiner may also forward the request to the Design Review Board (DRB) for design review and recommendation.

The proposed special exception is considered under the requirements of a Zoning Examiner Special Exception Procedure because the tower and antennas will not exceed 80 feet in height, and because the facility is setback at least two times the height of the structure from the boundary of any property zoned residential or office, as required by the UDC.

**Planning & Development Services Department Recommendation** – The Planning & Development Services Department recommends approval of the special exception request, subject to the attached preliminary conditions.

### **Background Information**

Existing Land Use: The site is currently undeveloped/vacant land.

### Zoning Descriptions:

C-2: This zone provides for general commercial uses that serve the community and region. Residential and select other agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

### Surrounding Zones and Land Uses:

North: Zoned C-2; Multi-family residential (apartments)

South: Zoned C-1 and C-2; Commercial automotive detailing and repair and educational uses

East: Zoned C-2; Commercial/Vehicle sales

West: Zoned C-2; Commercial/Vehicle Fleet Service for AAA repairs

Previous Cases on the Property: None

### Related Cases:

SE-15-21 Verizon – Prince Road, C-2 Zone – This was a request for approval of a wireless communication facility with 12 antennas concealed within an artificial pine (monopine) 70 feet in height, with associated ground equipment as a special exception land use in the C-2 zone. The special exception site is located approximately 235 feet south of Prince Road and 400 feet west of Flowing Wells Road. On June 18, 2015 the Zoning Examiner held a public hearing. The Zoning Examiner decision, dated July 2, 2015, approved the Special Exception request subject to conditions.

SE-14-89 AT&T– 1<sup>st</sup> Avenue, C-1 Zone – This was a request for approval of a wireless communication facility with monopole constructed of corton steel in a brown rust color, 67 feet in height, and associated equipment as a special exception land use in the C-1 zone. The special exception site is located 500 feet east of 1<sup>st</sup> Avenue and 500 feet north of Limberlost Drive. On February 23, 2016, the Mayor and Council adopted Ordinance No. 11342, allowing the special exception.

**Applicant's Request** – The applicant requests special exception approval for the placement of a 80-foot high cellular communications monopole with associated equipment within a 1,600-square foot lease area on a vacant 0.68-acre parcel. The facility will serve to replace an existing T-Mobile array, which is to be removed from a nearby high school ballfield light pole.

**Planning Considerations** – Land use policy direction for this area is provided by *Plan Tucson (PT)*, which supports policy that utilizes the Future Growth Scenario Map as a guide for determining the general location of development opportunities, development patterns, land use and transportation concepts, while also considering area and site specific issues.

The special exception site is located within a mixed-use corridor as identified on the Future Growth Scenario Map of *Plan Tucson*. Mixed-use corridors combine a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and the residents and workers in the surrounding neighborhoods with local access to goods and services. *Plan Tucson* policies protect established residential neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses. Policies require that wireless communication facilities be located, installed and maintained to preserve views, and call for improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communication facilities throughout the city.

The project is in general compliance with the intent of the plan. The plan policies generally support new cell tower proposals when designed to minimize visual impacts on surrounding neighborhoods and when buffering is provided.

Field inspection by staff indicates there are currently no billboards on the special exception site.

### **Design Considerations**

**Land Use Compatibility** – The proposed monopole will include two antennas per sector with three sectors for a total of six antennas in the initial installation of the T-Mobile array, with room shown on the PDP for two more antenna arrays below. Mitigation measures supported by staff include placement of antennas and other attachments as close to the monopole as practical, a sector width as narrow as practical, and with all surfaces and attachments painted in a rust color to minimize visual impacts. The PDP indicates the tower will be constructed with a brown rust-colored steel, with all antennas, mounts, cabling and other related visible equipment painted to match. The proposed standoff dimension from the monopole to the T-bar mount is approximately 3 feet, and the width of each antenna sector is shown to be 6 feet.

The required neighborhood meeting was held on-line by the applicant on June 17, 2020. The submitted meeting materials indicate that there were no attendees at the virtual meeting.

The nearest residential development is a multi-family apartment complex, zoned C-2, located immediately to the north of the WCF site. The nearest single-family residences are in a manufactured home park, zoned MH-1, approximately 330 feet to the north of the site.

The applicant has submitted a photo-simulation of the monopole, which will be set back from Prince Road by approximately 275 feet. The monopole will be visible from the surrounding residential neighborhoods, commercial developments, and from nearby streets. The applicant is proposing a monopole rather than a stealth tree design, such as a monopalm, monopine, or monoelm, because it will facilitate colocation possibilities for other future wireless carriers.

Existing vertical structures in the area consist of street light poles, nearby school light poles, and a number of electrical power poles. The applicant's report indicates that the monopole is being proposed as a replacement site for an existing ballfield light pole located approximately 1,600 feet to the northeast at Flowing Wells High School. The nearest existing alternate WCF is a tower for another carrier disguised as a pine tree (monopine) located approximately 1,400 feet southeast of the subject site (see Related Case SE-15-21 Verizon – Prince Road, C-2 Zone), but it is not deemed suitable for colocation of antennas and does not serve to fill the coverage gap.

The applicant proposes to place the monopole and ground equipment within a 1,600 square foot lease area located in the northeast corner of the undeveloped parcel. The tower is designated for potential future carriers. Ground equipment will be housed inside equipment cabinets enclosed within an 8-foot high chain link fence surrounding the lease area. The proposal does not include a backup generator.

Staff acknowledges that the proposed WCF will help improve telecom services to the established neighborhoods and businesses in the area. The proposal is in general compliance with *Plan Tucson* and does not require a plan amendment.

Road Improvements/Vehicular Access/Circulation – No road improvements are proposed with the project. Primary vehicular access to the WCF for maintenance will be by way of a 15-foot wide access easement from Prince Road and leading northward to a 5-foot wide maintenance access gate in the south side of the chain link fence surrounding the lease area. According to the *Major Streets and Routes Plan*, Prince Road is a major arterial street with a 120-foot right-of-way.

Federal Regulations – Because this Special Exception application involves a wireless communication request, the Zoning Examiner's consideration of the application is impacted by the application of federal laws specific to wireless communications. While federal law does not entirely preempt local decision-making authority based on legitimate zoning requirements, such as community aesthetics and compliance with stealthing requirements, it does impose the following limitations:

- 1) The decision on the application must occur within the “shot clock” period as provided under federal law, which for this type of application is 150 days. In this case, the application was accepted on August 31, 2020 and the “shot clock” period will expire on January 28, 2021. If a decision is not rendered within the “shot clock” period, the review and consideration process is presumed to be unreasonable and affords the applicant the opportunity to file a lawsuit. If sued, the City would need to prove that it

acted “reasonably” when it failed to act within the established “shot clock” period. This means that the Zoning Examiner should come to a decision on this application within two weeks of the public hearing.

- 2) The evaluation of the request cannot include consideration of potential environmental or health effects of radio-frequency (RF) emissions where, as here, the facility will comply with FCC regulations and standard on such emissions.
- 3) The decision on the application cannot unreasonably discriminate among providers of functionally equivalent services. A denial may be deemed to be “unreasonable discrimination” if the applicant is similarly situated to other prior applicants and the proposed facility is no more intrusive than other prior applications that have been approved.
- 4) The decision may not have the effect of prohibiting the provision of wireless services, or of causing a significant gap in the applying provider’s coverage. In this context, the relevant issues are: (1) whether the applicant has shown a significant gap in service coverage; and (2) whether the proposal to fill this gap is the least intrusive means of doing so, or whether there are alternative sites that would fill the gap.

In the event of a denial, that decision and its reasons must be delivered to the applicant in writing, and must be supported by substantial evidence. Given these constraints, the Zoning Examiner’s consideration and decision on this application should focus on whether the applicant has demonstrated a significant coverage gap; whether that gap could be addressed through an installation at an alternative site; and whether the proposed concealment/stealth measures are sufficient to meet the City’s requirements. The Zoning Examiner should also consider how this application compares to other prior applications for similar facilities. In the event of a denial, the reasons for the denial must be stated so they can be incorporated into a written decision and captured in the meeting minutes.

**Use-Specific Standards** – The applicant’s proposal requires approval as a Zoning Examiner Special Exception and must meet the Use-Specific Standards of *UDC* Sections 4.9.13.O and 4.9.4.I.2, .3, and .6.b. The Zoning Examiner may forward the request to the Design Review Board for design review and recommendation. Below is an analysis of the performance criteria:

.6.b. Wireless communication antennas, provided:

- (1) The antennas are mounted on a new tower and the tower or antennas are concealed or disguised, or mounted on a new structure.

*The steel tower has been designed as a monopole of a rust color with all antennas, mounts and associated tower equipment painted to match pole color. For this section of the UDC, painting is considered a method of concealing or disguising a tower.*

- (2) The tower and antennas are architecturally and/or environmentally compatible with surrounding structure(s) and general area.

*The tower will be located on a vacant parcel and is compatible with surrounding general commercial, vehicle sales, service and repair uses.*

- (3) The new tower is set back at least two times the height of the structure from the boundary of any properties zoned residential or office.

*The proposed 80-foot tower meets this setback requirement. The nearest residential zoning (MH-1) is approximately 330 feet to the north of the WCF.*

- (4) The tower and antennas are eighty (80) feet or less in height.

*The maximum proposed height of the tower is 80 feet above grade elevation at its highest point.*

Staff finds the proposal to be in compliance with the *UDC* Use-Specific Standards.

**Conclusion** – The proposal is in compliance with the performance criteria for a wireless communication facility. The special exception request is consistent with policy direction in *Plan Tucson*, which supports development designed to be compatible with and sensitive to surrounding land uses. The project is proposed as a replacement site for the existing WCF at Flowing Wells High School. The lease for the existing site will be expiring in the near future. The proposed WCF has been designed to blend in with the surroundings and does not conflict with plan policies. Subject to compliance with the attached preliminary conditions, approval of the requested special exception is appropriate.

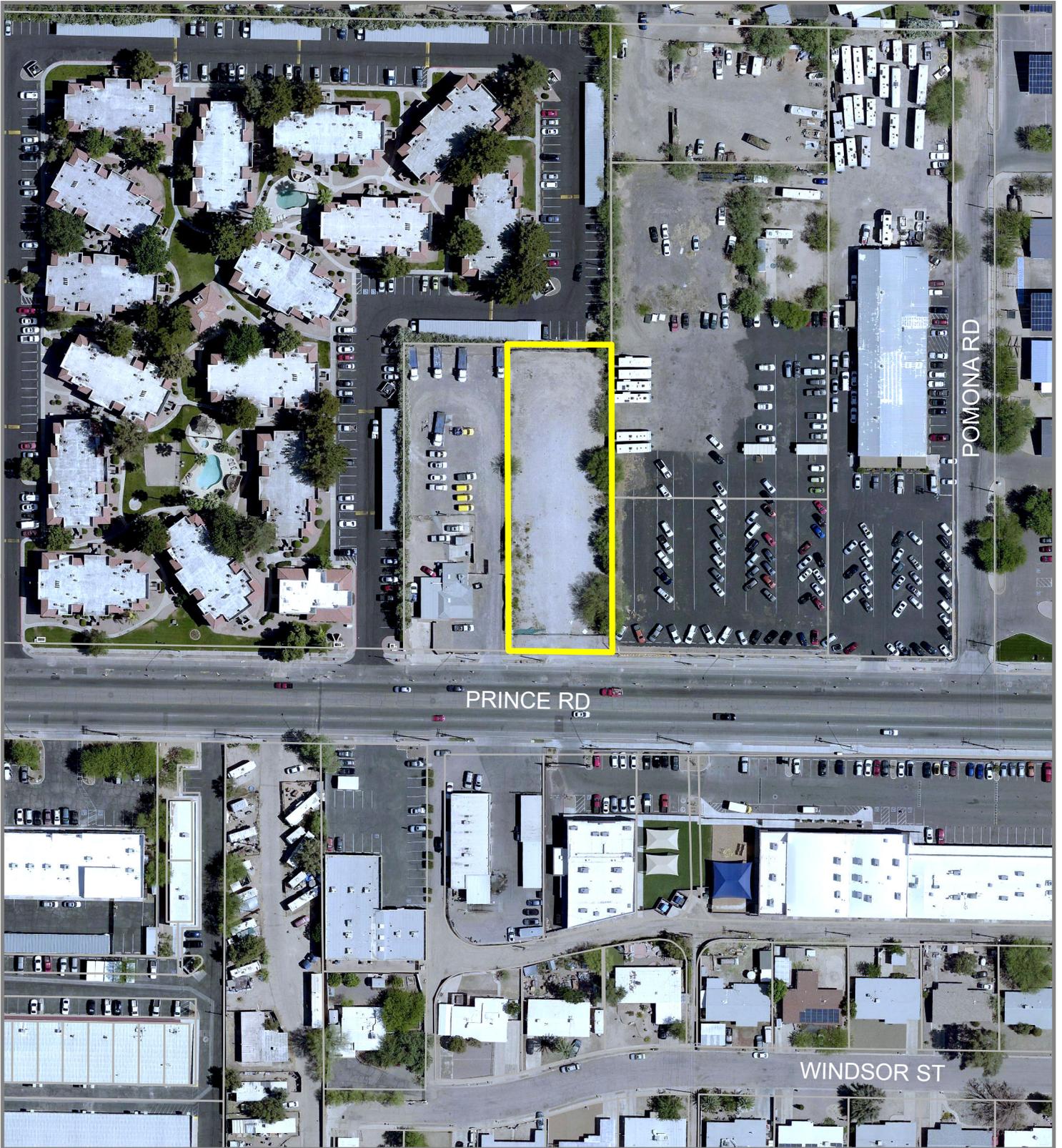
### PROCEDURAL

1. A site plan in substantial compliance with the preliminary development plan dated August 21, 2020, is to be submitted and approved in accordance with *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled “Agreement to Waive Any Claims Against the City for Special Exception Land Use”.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception land use.
6. A copy of the Special Exception decision letter shall be included with the site plan at the time of permit application submittal.

### LAND USE COMPATABILITY / CONCEALMENT MEASURES

7. The wireless communication monopole, including attachments such as lightning rod, shall not exceed eighty (80) feet in height from grade elevation.
8. Full length of monopole surface shall be a rusted steel finish to minimize visual impacts. Antennas and other collocating equipment shall be painted or finished to match finish of pole.
9. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, on the monopole.
10. All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels.

SE-20-10 T-Mobile - 1538 W Prince Rd



PRINCE RD

POMONA RD

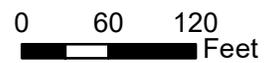
WINDSOR ST

2018 Aerial

Created by: MB, 08/25/2020



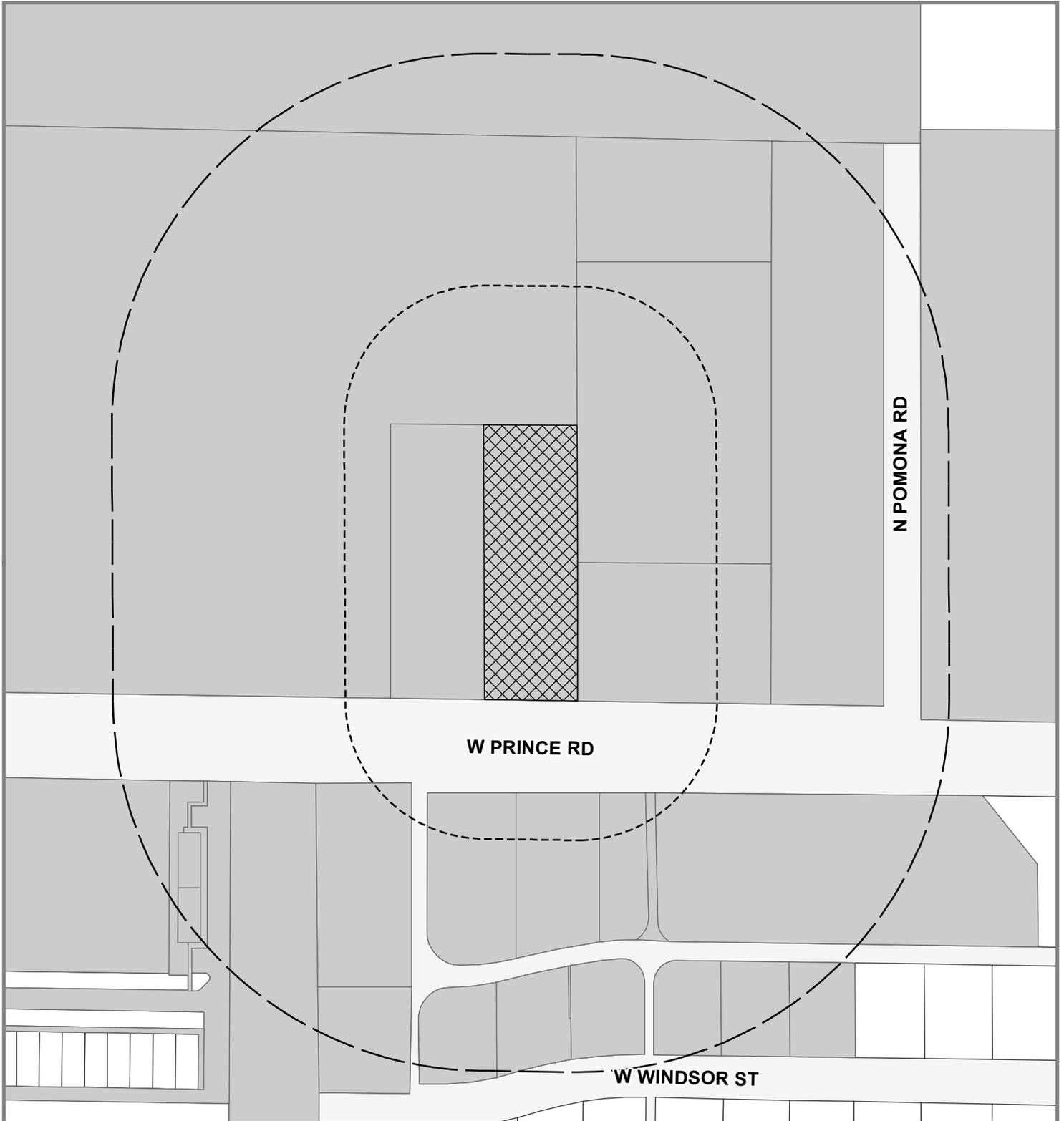
Address: 1538 W Prince Rd  
Base Maps: Sec.27 T.13 R.13  
Ward: 3



1 inch = 131.884851 feet



**SE-20-10 T-Mobile - 1538 W Prince Rd  
Z.E. Special Exception**



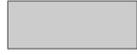
Area of Special Exception Request



Protest Area (150-foot Radius)



Notification Area (400-foot Radius)



Properties Notified



Address: 1538 W Prince Rd  
Base Maps: Sec.27 T.13 R.13  
Ward: 3



1 inch = 147.31 feet





Place  
Stamp  
Here

City of Tucson  
Planning & Development Services  
201 N. Stone  
P.O. Box 27210  
Tucson, Arizona 85726-7210

**SE-20-10**

Expose this flap - Affix stamp and return

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**City of Tucson**  
Planning & Development Services  
Rezoning Section  
201 N. Stone Avenue  
P.O. BOX 27210  
Tucson, Arizona 85726-7210

**SE-20-10**  
**IMPORTANT SPECIAL EXCEPTION NOTICE ENCLOSED**