



MEMORANDUM

DATE: February 18, 2009
For March 5, 2009 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: 
Albert Elias, AICP
Urban Planning & Design
Director

SUBJECT: SPECIAL EXCEPTION LAND USE – URBAN PLANNING AND DESIGN
REPORT
SE-08-49 AT&T at El Encanto – Broadway Boulevard, C-1 (Ward 6)

Issue – This is a request by Steve Olson of Crown Communications, on behalf of the property owners, El Encanto Properties, LLC, to allow a wireless communication facility and associated equipment as a special exception land use in the C-1 zone. The special exception site is located on Broadway Boulevard, approximately 520 feet west of Country Club Road. (see Case Location Map). The preliminary development plan (PDP) proposes a wireless communication tower and antennas, concealed within an artificial palm tree, 70 feet in height, and associated equipment to be placed within an existing office/commercial building.

Because the proposed facility is within 400 feet of a Gateway Route, the *Land Use Code (LUC)* Section 3.5.4.20.C. 4.c. and G. requires approval as a special exception through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3, subject to certain criteria. The *LUC* also states that the Mayor and Council may forward the request to the Design Review Board (DRB) for design review and recommendation.

Department of Urban Planning and Design Recommendation – The Department of Urban Planning and Design recommends approval of the special exception request, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Office building.

Surrounding Zones and Land Uses:

North: Zoned R-2; Church of Christ church, school and parking lot.

South: Zoned C-1; Commercial, retail and office uses.

East: Zoned C-1; La Raza 1030 AM Radio Broadcasting Station and Chase Bank.

West: Zoned C-1; Furniture store.

Previous Cases on the Property: None.

Related Cases:

SE-01-18 Nextel – 4725 E. Pima Street, R-1 Zone. - This is a request for a wireless communication facility, concealed within an artificial palm tree, 50 feet in height and associated ground equipment, as a special exception land use in the R-1 Zone. The site is located at the northeast corner of Pima Street and Swan Road. The Zoning Examiner approved the special exception on July 19, 2001 and Building Permit T01CM04816 was issued on November 19, 2001.

SE-08-02 AT&T - Anklam Road, C-1 Zone. This was a request for approval of a wireless communication facility concealed within an artificial palm tree, 55 feet in height, and associated equipment as a special exception land use in the C-1 Zone. The special exception site is located in back of an existing office building at the northeast corner of Anklam Road and La Cholla Boulevard. On July 8, 2008, the Mayor and Council adopted Ordinance 10567, allowing the requested special exception.

SE-08-31 New Spain Industrial Park – Sears Boulevard, PI Zone - This was a request for approval of a wireless communication facility and associated ground mounted equipment, as a special exception land use in the PI Zone. The project site is located on the east side of Campbell Avenue, approximately 1800 feet north of Valencia Road. The applicant proposed wireless communication antennas, concealed within an artificial palm tree, 71 feet in height, and a fenced equipment compound, forty by twenty five feet in size. On October 17, 2008, the Zoning Examiner approved the request.

SE-08-39 AT&T at Holy Trinity – 12th Avenue. This was a request for approval of a wireless communication facility and ground equipment, as a special exception land use in the R-1 Zone. The special exception site is located on the southeast corner of Twelfth Avenue and Calle Alvord, north of Bilby Road. The applicant proposed a communication facility concealed within an artificial palm tree, 65 feet in height, within a slump block enclosed equipment compound, 1,600 square feet in size. On December 5, 2008, the Zoning Examiner recommended approval. The case is scheduled before the Mayor and Council on January 27, 2009.

Applicant's Request – The applicant requests approval of a wireless communication tower and antennas, concealed within an artificial palm tree, 70 feet in height, and associated equipment to be placed within an existing office building, as a special exception land use in the C-1 zone.

Planning Considerations

The proposed project site is located on Broadway Boulevard, just west of Country Club Road. Broadway Boulevard is designated as a Gateway Route with a future right-of-way of 150 feet on the *Major Streets and Routes Plan (MS&R)* map. Country Club is designated as an arterial with

a future right-of-way of 100 feet on the *MS&R* map. The proposed wireless facility is not expected to generate addition traffic.

The *General Plan (GP)* and the *Sam Hughes Neighborhood Plan (SHNP)* provide land use policy direction for this area. The facility proposed is an artificial palm tree located within a developed commercial office site zoned C-1.

SHNP Land Use, Goal 1, Policy 1.2. - Broadway Frontage, is to allow general commercial uses provided new developments furnish required access, off-street parking, and circulation which will not be eliminated or adversely affected by future dedications for, and construction of, any projects recommended by the Broadway Corridor Study.

Policy 3.7 of the *GP*, Element #4, Community Character and Design states that whenever possible, telecommunications facilities be located, installed and maintained to minimize visual impacts and preserve views. Also under Policy 4.6, the *GP* promotes the coordination of efforts of government, private developers, and utility firms to improve the appearance of necessary aboveground utility lines and structures.

The plans support the requested land use when visual appropriate design elements and buffering techniques to mitigate the potential negative impacts of more intense development on established neighborhoods are employed. The project site and surrounding developments are planted with numerous palm trees. The proposed wireless communication facility responds to the characteristics of the landscape in the area because the communications tower will be concealed within an artificial palm tree. The project is in general compliance with the intent of these plans.

The *General Plan* and the *Sam Hughes Neighborhood Plan* support development that is designed to be compatible with and sensitive to surrounding land uses. The proposed telecommunications facility has been designed to blend in with the surroundings and does not conflict with plan policies.

Design Considerations

Land Use Compatibility – The applicant is proposing a wireless communication pole and six antennas concealed within an artificial palm tree, 70 feet in height. The proposed palm tree will be located in an existing landscape planter behind the northwest corner of the existing commercial/office building. Although Broadway Boulevard is a Gateway Route, the artificial palm is approximately 105 feet north of the Broadway frontage. The antennas will be concealed within the fronds of the tree, and bark cladding will be placed on the vertical structure to authenticate the appearance of the palm trunk. The facility has been designed to locate the associated ground equipment inside the commercial/office building.

The Church of Christ church, school and parking area is located immediately north of the project site. Offices and the Chase Bank are located to the east. A furniture store is located west of the project site and commercial, retail uses and offices are located to the south, across Broadway.

The PDP indicates that the artificial palm is designed to accommodate the addition of three, flush-mounted antennas, to be installed by a future wireless provider. Staff recommends that when a future provider is identified, the new antenna plans be reviewed through special exception application so that staff can analyze the potential impacts and ensure compatibility with the structure proposed by AT&T.

Drainage/Grading/Vegetation – According to the applicant, twenty-five palm trees are planted around the project site on the south, north and west sides of the commercial/office property. Although the PDP depicts the existing palm trees as date palm varieties, the palms planted on site are actually fan palms. Approximately 75 palm trees are planted on surrounding properties within 800 feet. To ensure the visual context of the proposed facility on the site, staff recommends using a fan palm design for the artificial palm tree. Staff also recommends that AT&T routinely monitors the facility and promptly replace/repair palm fronds as damage occurs.

Road Improvements/Vehicular Access/Circulation – The project site is located approximately 105 feet north of Broadway Boulevard at the rear of an existing office building. No road improvements, vehicular access or additional circulation is proposed as part of the project.

Performance Criteria – The applicant’s proposal requires approval as a Special Exception through a Zoning Examiner Legislative Procedure (ZELP) and must meet the following performance criteria as stated in Sections 3.5.4.20 B, C, and G. of the *LUC*. The Mayor and Council may forward the request to the Design Review Board for design review and recommendation.

3.5.4.20. Communications

- C. General. The following are applicable to all wireless communication requests.
4. No new towers shall be permitted within four hundred (400) feet of a designated Scenic Route or Gateway Route; within a designated Historic Preservation Zone (HPZ) or Environmental Resource Zone (ERZ); or on a protected peak or ridge as identified in a Hillside Development Zone (HDZ) except as follows:
 - c. New communication towers may be permitted on Gateway Routes in exceptional circumstances, provided there is no alternative and the placement is approved through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3.

Broadway Boulevard is designated on the Major Streets and Routes Plan map as a Gateway Route and the proposed wireless communication facility is located 105 feet north of the Broadway Boulevard frontage, behind a commercial/office building. The La Raza 1030 AM Radio Broadcasting Station is located within the same commercial/office complex as the proposed facility. The commercial/office structure houses large satellite dishes and other broadcasting equipment on the roof. Staff considers the proposed site appropriate because it

provides an opportunity to concentrate the proposed wireless facility with other existing communication facilities and because the proposed artificial palm will not create a visual impact to Broadway Boulevard.

G. Wireless communication antennae, provided:

- a. The tower or antennae are not permitted by other provision of this Section.

The proposed special exception site is zoned C-1 which limits wireless facilities to fifty feet in height. Because the facility proposed is 70 feet in height and does not comply with other provisions of LUC Section 3.5.4.20, a Zoning Examiner Legislative Procedure is required.

- b. New towers require a minimum separation of one (1) mile from any existing tower, regardless of ownership, unless documentation establishes that no practical alternative exists.

The applicant has provided two graphics illustrating the existing service area coverage and the service coverage that will be provided by the proposed facility. The existing service coverage graphic depicts a geographic area, designated as “poor” service, generally located west of Country Club Road, between Sixth and Winslett streets and east of Country Club Road, between Broadway and Second Street. According to the application, three existing wireless facilities are located at Alvernon and Broadway and east of Tucson Boulevard. While these sites are within one mile, the proposed artificial palm tree facility can provide the needed coverage without any visible change. The applicant is proposing a facility designed to accommodate future antennas for an additional provider.

- c. All appropriate measures shall be taken to conceal or disguise the tower and antenna from external view.

The applicant proposes a wireless communication facility, concealed within an artificial palm tree, 70 feet in height, with antennas to be painted to match the color of the fronds. The associated ground equipment is to be located inside the existing office building, at the northwest corner of the structure.

The applicant included an inventory of live palm trees planted on-site and within 800 feet of the project site. According to the inventory, 25 live palm trees are planted on the project site and approximately 75 palm trees are planted within 800 feet of the site. An aerial photograph is included with the application, showing the locations of live palm trees in the neighborhood surrounding the proposed site.

Given the presence of fan palms on site and palm trees in the area, the artificial palm proposed represents an effective way to mitigate visual impacts of the wireless facility on the surrounding development.

- d. All appropriate measures shall be taken to reduce the negative proliferation of visible towers and antennae by the collocation of new antennae on existing towers or with the facilities of other providers which are located or planned for development within the proposed service area.

The applicant has designed the artificial palm with a position for three additional wireless antennas. The application indicates that the antennas on the future position would be flush mounted below the proposed AT&T antennas. However, the application does not contain enough information regarding the future facilities or the provider. Staff recommends that any future facilities be reviewed through special exception applications to ensure compatibility with the area and this proposed facility. Staff supports planning for the future co-location of the additional provider to eliminate the need for other towers in the immediate area.

- e. Notice shall be provided to all agents designated, pursuant to Sec. 3.5.4.20.B.7, at least fifteen (15) days prior to the date of the public hearing before the Zoning Examiner.

A notice will be provided at least 15 days prior to the assigned Zoning Examiner's public hearing to all property owners within 300 feet of the subject property and all neighborhood associations within one mile of the proposed site.

Conclusion – The proposed special exception use is consistent with the policy direction in the *Sam Hughes Neighborhood Plan* and the *General Plan*, which supports development that is designed to be, compatible with and sensitive to, surrounding land uses. The proposed wireless facility 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.

Preliminary Conditions

PROCEDURAL

1. A development plan in substantial compliance with the preliminary development plan dated December 29, 2008, and the Design Compatibility Report, is to be submitted and approved in accordance with Section 5.3.8 of the *Land Use Code*. The conditions apply to the initial installation of AT&T facilities. Other future carries shall be reviewed under separate special exception processes.
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 Zoning Amendment”.
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. “Safe by Design” concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. 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.

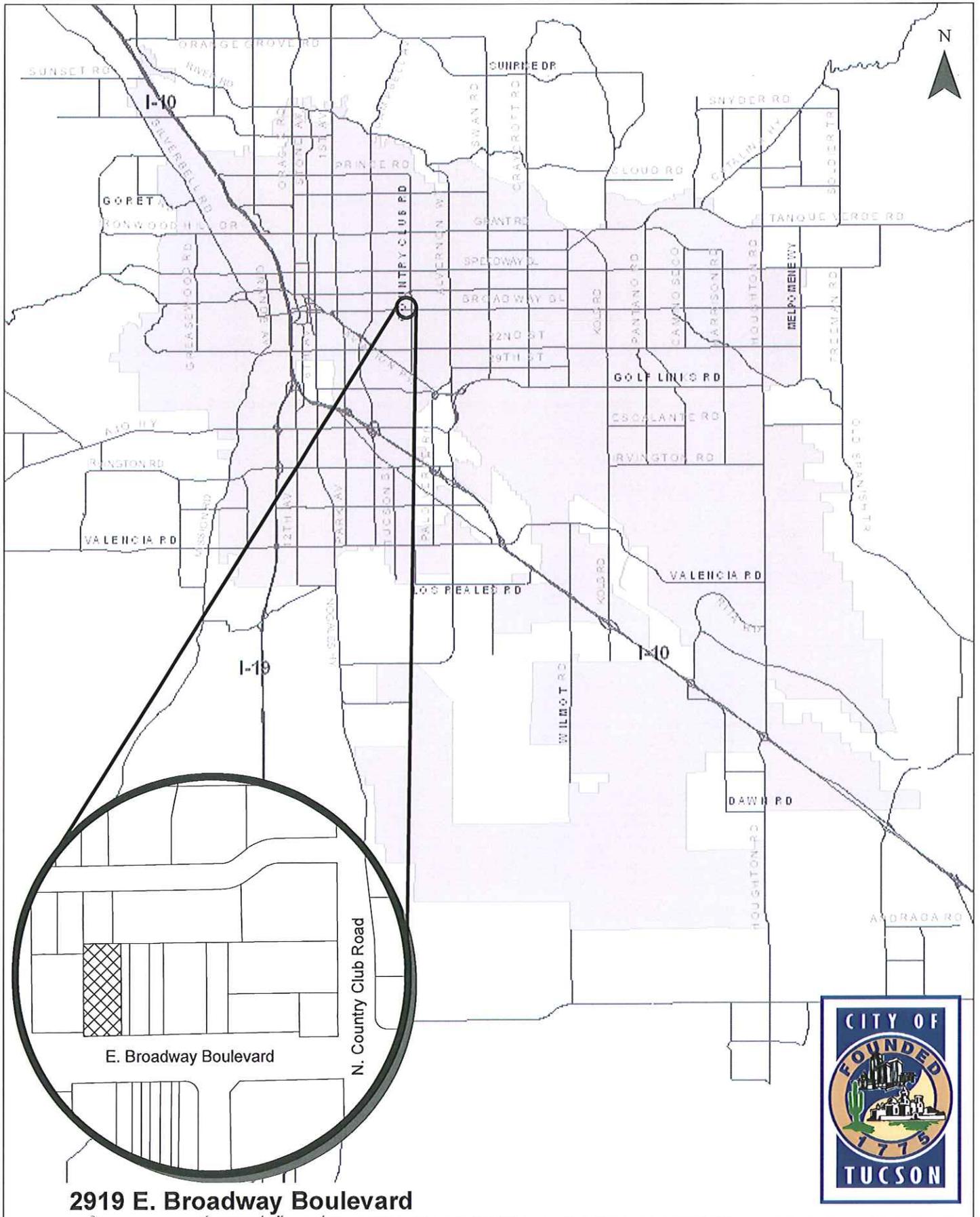
LAND USE COMPATABILITY

7. The top of the artificial palm tree shall be designed as a fan palm and shall not exceed seventy feet in height at the top of the fronds.
8. The maximum diameter of the palm trunk shall not exceed 24 inches.
9. The pole shall be full bark cladding in imitation palm tree bark, and painted an appropriate bark color.
10. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, or other unnatural appearing features on the stealth monopole.
11. A maximum of six (6) antenna panels shall be installed and painted to match the palm fronds as appropriate. The antenna panels shall not visually extend above or below the artificial palm fronds.
12. AT&T shall routinely monitor the facility and repair/replace any fronds that may be damaged.

Preliminary Conditions

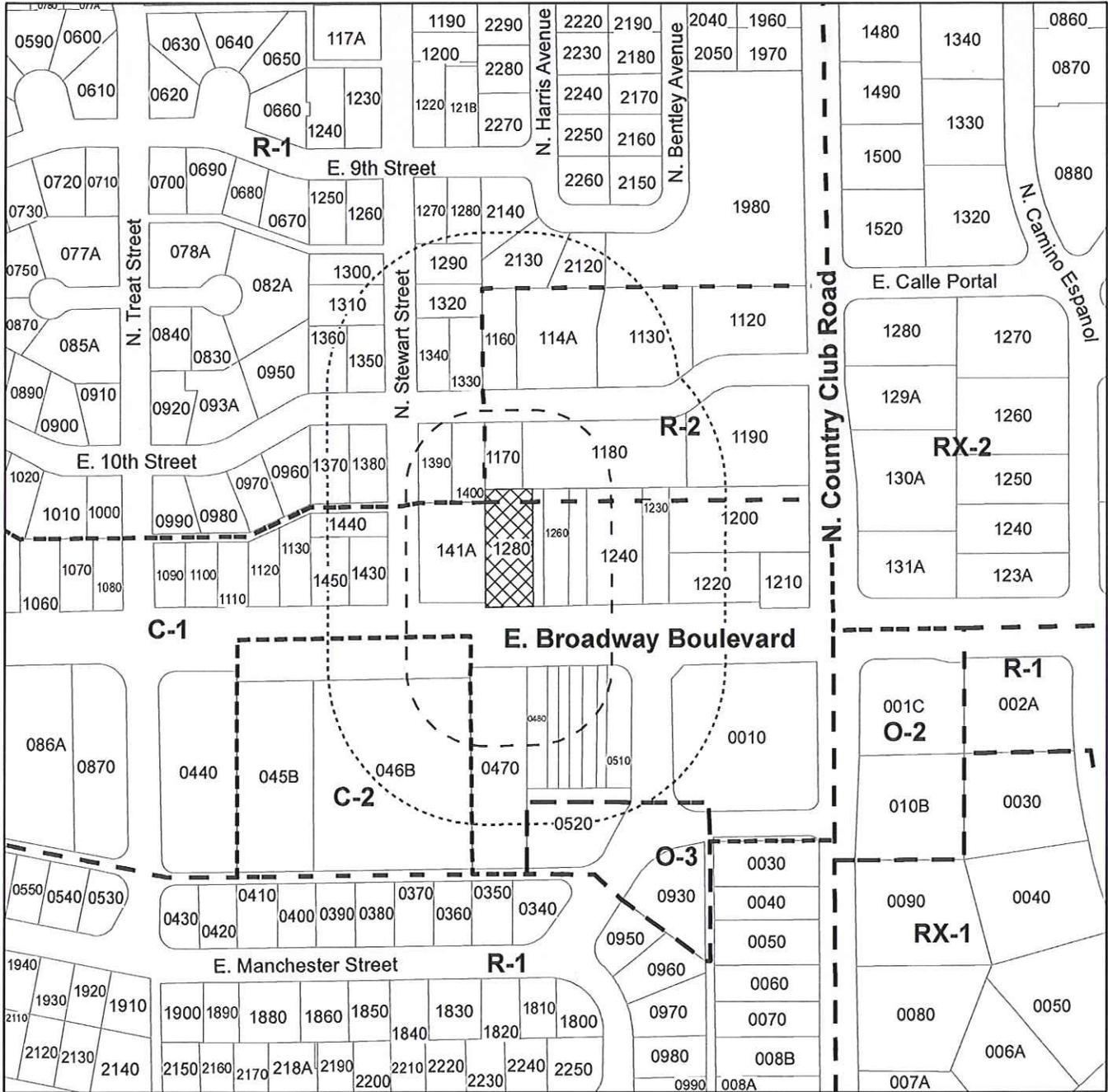
13. The maximum size of the antennas shall be 52 inches high, 18 inches wide and 4 inches deep (52" H x 18" W x 4" D).
14. The AT&T antenna offset dimension shall be limited to twelve inches (12") and, within each sector of the AT&T facility, the maximum separation between the outer antennas, measured center to center shall not exceed four (4) feet.
15. Future antennas installed below the AT&T antennas shall be limited to a maximum of three antennas, flush-mounted to the palm tree trunk and painted to match the existing palm tree bark. Plans for future carriers must be approved through the special exception process.
16. The ground equipment shall be located inside the existing office building.
17. The proposed power/TELCO route from the electrical room to the applicant's lease area shall be located on the ceiling underside of the courtyard walkway. The proposed conduit shall be painted to match the existing ceiling color.

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Special Exception - Legislative Procedure



0 150 300
Feet

1 inch = 300 feet

Area of Special Exception Request

C-1 Zoning of Requested Area

Protest Area (150 foot radius)

Notification Area (300 foot radius)

Zone Boundaries

Neighborhood, Area Plan(s): Sam Hughes Neighborhood Plan
 Address: 2919 E. Broadway Boulevard
 Base Maps: Sec.08 T.14 R.14
 Ward: 6





N. Country Club Road

E. 9th Street

E. 10th Street

E. Broadway Boulevard

N. Stewart Avenue

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February 2009 Aerial